

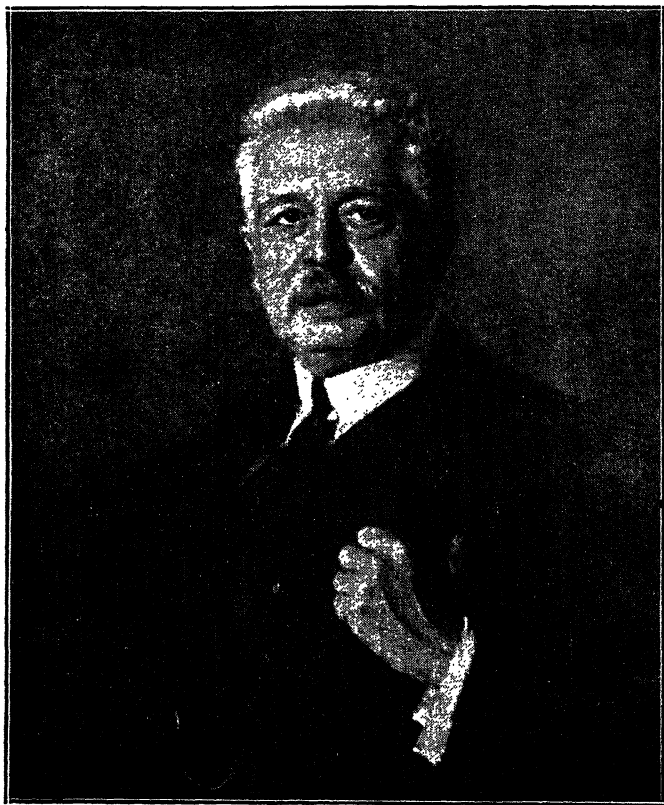
UNIVERSAL
LIBRARY



113 226

UNIVERSAL
LIBRARY

ROME $v|_s$ ROME



V. E. ORLANDO

ROME ^v|s ROME

"A CHAPTER OF MY WAR MEMOIRS"

BY

V. E. ORLANDO

TRANSLATED BY

CLARENCE BEARDSLEE

S. F. VANNI INC.
NEW YORK

Copyright 1937
by
S. F. VANNI, INC.

CONTENTS

	Page
Foreword by Edward M. House	9
Preface by V. E. Orlando	11
Introduction. Historical, political and juridical summary of the relations between the State and the Church in Italy from September, 1870 to February 11, 1929.	21
I. Pius X	81
II. The State and the Church in Italy during the War.	101
III. Further discussion of relations between the State and the Church during the War. "A laboratory experiment."	113
IV. From Benedict XV to Pius XI.	125
V. The preconciliation.	137
VI. Harmony or antinomy between the Lateran Accords of 1929 and the Law of 1871?	149
Appendix. The Diary of Monsignor Cerretti; with a note by V. E. Orlando.	177
Bibliography	189

FOREWORD *By* EDWARD M. HOUSE

It pleases me to know that His Excellency, Vittorio E. Orlando, is writing, and will soon publish, certain incidents in his notable career, when he had the direction of Italy's foreign and domestic affairs during the World War. This is exceedingly important from the viewpoint of historians in every land.

My own endeavors during the making of the Armistice and at the Peace Conference brought me in close touch with the Italian Prime Minister. My confidence and admiration for him grew as my association with him lengthened during those turbulent years. He had a personality that won him friends and gave him power to accomplish his purposes. His colleagues always desired to go his way as far as they reasonably could.

My association with him is one of the pleasantest memories of a lifetime devoted to the public service.

E. M. H.

PREFACE By V. E. ORLANDO

It would be not only inexact but erroneous to say that this volume is a translation of my book published in Italy "Su alcuni miei rapporti di Governo con la Santa Sede." On the contrary, the present work has an entirely original aspect. This statement is justified not only by the material extension of the work (it has been more than doubled), but still more by its general character.

The present publication differs from the one published in Italian in that it has two diverse characters, one of which represents a chapter of my "Memoirs." As a statesman and especially because of my governmental activity during the World War, the relations I had with the Church and the Pontificate constitute, in the great history of the War and the Peace, a chapter the importance of which does not have to be stressed, because it is manifest by itself. But, since these relations between the State and the Church in Italy were carried out in a definite situation, at once political and juridical, we could not have a full and complete understanding of that history if we did not have before us the conditions in which the Holy See found itself in relation with the Italian Government — and this forms the second character of

the book. This bond necessarily stands out as much more intimate when we recall that the situation, as it was during the World War, became transformed in such a manner that it seemed, and was termed, radical and revolutionary. Moreover, it cannot be said that the relation between the purely historical part (the attitude of the Holy See toward Italy during the World War) and the technical - juridical part (the transformation taking place in the situation of the Church in the Italian State) is entirely accidental; and by this, everyone understands how that transformation is bound together with the profound upheavals caused by the War. An additional proof of this is found in the fact that a first and almost decisive manifestation of the tendency toward conciliation appeared at the very moment of the conclusion of peace in March, 1919 — the “preconciliation” (chapter V of this volume).

Given this logical connection that must be recognized between the purely historical aspect of my recollections here published and the juridical aspect of the constitutional and international conditions of the Holy See in Italy during the two periods — before and after the Lateran Accords of 1929 — it seemed to me necessary that this work also contain an exposition of the juridical situation. . . .

It is for this reason that, as I say, the present volume has two characters: one, a chapter of my “Memoirs” of the history of the war and the peace; the other, an exposition of the juridical and political situation of the Holy See in Italy as it was in the two periods of 1870 (the taking of

Rome) to 1929 (date of the Lateran Accords), and of 1929 to the present. Though the second part is necessarily of a technical-juridical character, I have tried to give it the simplest and clearest form so that it will be comprehensible to the general public.

Can the two characters of the book exist side by side without being mutually damaging? I think they can. Meanwhile, having explained this point essential for the understanding of the spirit of this book, I shall give some specific clarification of both the characters which practically constitute this work.

With regard to the purely historical-political part which constitutes, as I said, a chapter of my "Memoirs," I may take the occasion here to answer publicly the many people both in Italy and abroad who ask if and when I am going to publish my memoirs, and why I am delaying the publication.

It cannot be denied that such curiosity is legitimate. It certainly cannot be said that about the World War and subsequent efforts for peace there has been a lack of that form of special historical documentation which constitutes "memoirs." Quite the contrary. This type of literature that seemed to have fallen into disuse after its splendid development in the eighteenth century has had such a revival that it is perhaps time now to regret its excessiveness rather than its paucity. Memoirs have been and continue to be published, not only by men who took direct part in those great events, but even by participants more or less modest and by more or less occasional observers. I fear that

the future historian will, in this respect, be embarrassed by the abundancy, aggravated by the circumstance that the quality does not correspond to the quantity. In fact, we have not infrequently the case where such publications are made for the satisfaction of vanity, if, worse still, they are not actually brought forth by the wish to stir up talk about the authors or for motives of revenge.

As for myself, it certainly cannot be said that I have no title to a place in this type of literature. Even considering a purely material side, no statesman, as regards the time element, exceeds me (only Lloyd George equals me): I was in the Italian Government during the entire war and during the decisive period of peace. I came to Salandra's Cabinet early in November, 1914, was a member of Boselli's Cabinet which followed in June, 1916, and became Premier toward the end of October, 1917, on the same day that the Italian front was broken at Caporetto and Italy, invaded by the enemy, was experiencing the greatest danger in its history. By God's will the greatest honor and fortune was reserved for me: to carry the nation from the abyss of defeat to the height of glory (the victory of Vittorio Veneto and the destruction of the Austro-Hungarian Empire on November 4, 1918). I remained Head of the Government until June, 1919 and was head of the Italian Delegation to the Paris Conference during the eight months of November, 1918 to June, 1919 during which time the fate of the World was decided. My period of service in the government comprised, therefore, all the years of Italy's participation in the War and the decisive periods of peace.

I was one of the famous "Big Four" (ah, how right Bossuet was when, in his famous funeral oration for the great Condè, he exclaimed: "Dieu seulement est grand!" In truth, the expression itself, the "Big" Four, today sounds like the bitterest epigram).

Without doubt, then, no one more than I has the right (in a certain sense a duty) to add his volume to the now vast library containing memoirs about the War and the Peace Conference.

Why does my volume not exist, then?

It would be so complex and difficult an undertaking to give the reasons, starting from the beginning, that I should need. . . a volume! I can, however, condense these reasons into the form of a general synthesis. Every writer, I believe, is as an orator, more especially if he treats of politics or of history, the events of which are actual; he needs a public; and besides, there must exist a spiritual atmosphere which allows the writer-orator to express and defend his thesis, and a public to hear and understand it. This being so, a publication of mine of this type would lack both the public and the spiritual atmosphere — in Italy and abroad.

As for Italy, since I feel profoundly the special obligations that a citizen must observe when speaking abroad of his own country, I mention only these facts: I had against me all the parties, all the victors who were then defeated, and the defeated who later became the victors; for the last twelve years I have not been active in politics; I have renounced all authority and honors; a profound oblivion has descended on my name. It is useless to search for the causes; I can only say that

I have accepted this oblivion as the rational necessity of a historical situation imposed by destiny. Why should this silence be disturbed?

As for world opinion, no case is more paradoxical than my own. Formally, I am one of the authors of that Treaty of Versailles, against which today the sharpest criticisms are being directed and to which the most violent reactions are increasingly being made; in fact, I was the Treaty's sole but resolute opponent (it is little known that of my own will I did not affix my signature to the document) and, in a certain sense, I was its victim. This is not all. The entire formidable history of events subsequent to the so-called Peace is directly related to the grave, unpardonable attacks made on me at that time when I represented Italy. My affirmation may seem dramatic, but it is no less true, that many contemporary events can be represented as the expiation of those wrongs—recently vindicated by Italy's superb victory over a formidable coalition of world character — that were done me at Paris in the fatal months of April to June of 1919. These are history's revenges!

This profound connection between the adjustment given to the world by the Treaty of Versailles and the history of the manner in which Italy was treated in 1919 will, I know, surprise many. The history of the Peace Conference has not been until now comprehended in its spirit and cannot be comprehended if the decisive influence that the Italian questions had on it is not essentially kept in sight. Let it be understood that when I say this I do not speak from the point of view of the relative importance of those questions. As great as

is that importance, it is necessary to recognize that in an international conference which had to consider, besides the formidable problems of the general adjustment of the world (the League of Nations, mandates, disarmament, and so forth), territorial problems on which depended the European adjustment from the Franco-German frontier to the creation of new nations (Poland, Jugoslavia, Czecho Slovakia), the question of Italy's frontiers, as important as it is, may appear relatively less and even be considered as an episode in a great drama.

But, appearances to the contrary, Italy's revindications (especially regarding the Adriatic), through the play of occult and sinister forces became the central point of all the intrigues, of all the transactions, of all the betrayals on which was made to depend the solution of other questions, even in themselves independent of the Italian questions. Who for example could think that the fate of Danzig was determined with the intention of creating prejudices against Italian aspirations regarding Fiume?

This is only an example. But, as I said, the Italian revindications, and more especially those regarding the Adriatic, constitute the most powerful lever of all the mechanism of force that imposed the treaties elaborated in Paris in 1919 which caused the error and wrongs the consequences of which humanity suffers even today. It will be understood that I cannot now in passing, and casually, give a demonstration of such an important affirmation, but the motive for the silence in which I have to close will also be easily under-

stood. I do not believe that a man who, as I, has taken active part in such great events can possibly change himself into a historian whose greatest quality must be serenity. His very style cannot be expositive; it must be polemic and aggressive. The time has not yet come when what I have to say can be said usefully; the conditions essential for the effectiveness of my words are lacking.

And now, as for the second part, or character, of this volume: the technical study of the situation of the Holy See in Italy during its various historical phases. Before 1870 there existed the so-called "temporal power" of the Popes, true Sovereigns of true States, in the international and constitutional sense of the word (the "States of the Church"); after September 20, 1870, with the taking of Rome this situation ceased to be, and there was substituted (though the Church refused it) the regime of the so-called Law of Guarantees of 1871; finally, with the conclusion of the Lateran Treaty on February 11, 1929, the Pontiff was formally granted the quality of a Sovereign, in the constitutional and international sense, over a State called the "Vatican City."

In the chapters of this book, where direct references are made to the historical-political recollections of the Author while representing the Italian Government in relations with the Holy See, the existence and the quality of those various situations are, in the course of the narrative, presumed to be known to the reader. But since this book is addressed to a non-Italian public having less familiarity with such concepts and that period of history, I have thought it necessary to give some

clarification. For this reason an "Introduction" has been provided which serves as a résumé, a synthesis, of the whole subject.

At this point I must publicly express my thanks to a young but already eminent Italian juriconsult, Professor Edoardo Ruffini, who in the preparation of the "Introduction" has contributed his fine, superior intelligence and his highly specialized knowledge of this subject. This contribution has had the value of actual collaboration.

Acknowledgement is also due Clarence Beardslee for his conscientious and faithful translation.

V. E. O.

INTRODUCTION

HISTORICAL, POLITICAL AND JURIDICAL SUMMARY OF THE RELATIONS BETWEEN THE STATE AND THE CHURCH IN ITALY FROM SEPTEMBER 1870 TO FEBRUARY 11, 1929.

The term *The Roman Question* has been given to the specifically Italian aspect of a problem having universal characteristics — the problem of relations between the State and the Church, which has had a profound influence on the course of world history. This problem was of much graver concern to Italy and in that country acquired a far more special character because of an obvious geographical and historical factor — Rome. Thus the problem was determined by conflicting aims. On one side there was the aspiration (realized in 1870) of the Italian people and the statesmen of the Risorgimento to unify the various sections of Italy, that for centuries had been subject to foreign domination or had existed as small more or less independent states, into one nation with Rome as the capital. On the other side there was the Church's claim to maintenance of its temporal power — that is, full sovereignty

over a portion of the Italian population and territory in which Rome was situated.

This was one of the most complex of political-religious conflicts, in view of the irreducible disparity of substance and ends of the two opposing forces: the Italian State, insisting on its political unity; and the Church, wishing to insure that it retain a necessary and unexchangeable guaranty of free exercise of its temporal mission in the world.

The temporal dominion of the pontiff (variously called the Pontifical State, the State of the Church, or the Patrimony of Saint Peter) was constituted toward the middle of the eighth century as a political, territorial unity, having for its center Rome and the Lazio, under the absolute sovereignty of the Pope, and had continually grown by donations of land made to the Church, principally during the Carolingian period. By the end of the fifteenth century, it included Rome, the Lazio, Umbria, the Marches, Romagna, Benevento and Pontecorvo, as well as Venosa and Avignon. Invaded by the troops of the French Republic in 1798, dismembered and suppressed by Napoleon in 1809, the temporal rule of the Pontiff was restored by the Peace of Paris on May 10, 1804, and recognized with all the attributes and privileges of a State by the final act of the Congress of Vienna on June 9, 1815 (France, however, retaining Avignon and Venosa). Falling again in 1849, with the proclamation of the ephemeral Republic of Rome, it was quickly regained in the same year by French troops.

Constitutionally, the State of the Church was

an absolute monarchy, though at the same time elective. The organs of the central government were: a Cardinal Secretary of State; a council of state composed partly of laity and partly of ecclesiastics. The State was divided into five Delegations governed by Cardinals, and twenty Provinces governed by prelates. During the revolutionary period of the nineteenth century, the Pope for a short time, in 1848, was favorable to the liberal movement and to the patriotic aspirations for Italian unity; the possibility was considered of making Italy a federal government on the type of the American government, that would have had the Pope as permanent president. This was for a short period only, and the Pope soon proved to be unmitigatedly opposed to every reform and every concession, and disposed to resist with all his force and with the help of the French the legitimate internal and external pressure for annexation of Rome to the new Kingdom.

But such resistance was in vain. In spite of active opposition, nothing could impede the unification of Italy. Through the rebellion of the population and their spontaneous submission to the government of the house of Savoy, the Papal State lost the March of Ancona and Romagna in 1859, and, in 1871, the other Marches and Umbria. In this manner, on the eve of the decisive events of 1870, the territories subject to the Pope were reduced to a zone corresponding approximately to the region called Lazio, including the territories of Rome, Civitavecchia, Viterbo and Frosinone, with a population of about 700,000.

The Franco-Prussian War in 1870 and the col-

lapse of the Second Empire gave Italy the opportunity of completing its unification. The French troops had in fact barely evacuated Civitavecchia when the active party and public opinion loudly demanded the occupation of Rome. On September 8, Victor Emmanuel II wrote in person to the Pope asking again for the latter's renunciation of temporal power, and assured him that the head of Catholicism would retain a glorious seat on the banks of the Tiber, independent of every sovereignty. This attempt at a pacific plan failed, and it was necessary to resort to arms. The Italian troops invaded the Papal State on September 11, 1870, almost without opposition, and on the morning of September 20, entered Rome through a breach in the Porta Pia.

The capitulation signed at Villa Albani by General Cadorna for the Italians and by General Kanzler for the Papal State, excluded at once the occupation of the so-called Leonine city — that is, the part of Rome on the right bank of the Tiber adjacent to Saint Peter's and the Vatican. But on the following day, at the request of the Pope who had not succeeded in maintaining public order in that section, the occupation was extended to the whole city, though public forces did not enter the confines of the Vatican buildings. On October 2nd, the plebiscite was taken; 133,681 votes were cast in favor of the annexation to Italy, and only 1,507 were opposed. The annexation was proclaimed by Victor Emmanuel II on October 6th.

This was the fourth and last time in three quarters of a century, that the Papal State was suppressed. By a strange coincidence, the Pope was

deprived of his temporal power at the same moment in which the Vatican Council (that had been ordered suspended by Pius IX because of the events of 1870), with the definition of the dogma of the infallibility of the Pope, gave the highest confirmation to his spiritual power.

The Holy See at once protested energetically against the occupation of Rome. Immediately after the occupation, Pius IX declared to the diplomatic corps assembled in the Vatican that he had yielded to force, and that from that moment he considered himself a prisoner of the Italian King, to whom he would not recognize the unified Kingdom. From that day, in fact, until after the Lateran Accords, the Pope did not leave the enclosures of the Vatican palaces. Neither was the papal benediction given *urbi et orbi* from the outside balcony of St. Peter's until Pius XI, as a first sign of the near conciliation, reestablished the custom in 1922.

On the first of December, Pius IX condemned in solemn form the "usurpation" with the encyclical "*Respicientes ea omnia*," pronouncing the major excommunication (with which canon law punishes the usurpers of the Church's possessions) against the authors and agents of the events of September 20th, commencing with the King. This intransigent attitude was formally maintained by his successors who always, on occasion of their coronation, renewed the protest against the "usurpation," and refused to recognize the Kingdom created in Italy by the seizure of Rome.

September 20, 1870 marks the close of the first, or what might be called the preparatory, phase of

the Roman Question, and the opening of its acute phase.

It was obvious that the occupation of Rome presented Italy with a formidable problem: that of regulating the juridical position of the Holy See, assuring to it the free exercise of its spiritual functions in the world. Above all, it was necessary by means of skillful diplomacy to pacify world opinion aroused by catholics, and to prevent international complications over a question essentially Italian, in the solution of which the government was determined to tolerate no foreign intervention. This caused the Italian Government to issue a series of notes and circulars, both before and after the possession of Rome, in which assurance was given to the catholic powers that the most ample guarantees would be accorded the Pope. Regarding this, it must be acknowledged that the restrained comportment of the great powers, especially France and Austria, from whom opposition was feared, greatly facilitated the Government's plan.

In the decree of October 9th that sanctioned the plebiscite for annexation of Rome and the Roman provinces to Italy, as well as in the law of December 31, 1870 relative to the annexation, the assurance had already been given that the Pope would conserve the dignity, inviolability and all the personal prerogatives of a sovereign, and it had been announced that a law would be formulated guaranteeing independence and liberty in the exercise of his functions.

Long, animated parliamentary debates took place, revealing the most disparate political, reli-

gious and juridical tendencies. The Conservative Right party, following the separatist tradition already supported by Count Cavour before the annexation, finally won out, though not without great effort. On May 13, 1871 the promised statute was passed, entitled "For the guarantees of the prerogatives of the Sovereign Pontiff and of the Holy See and for the relations of the State with the Church."¹ Although no longer in effect (it was abrogated by the Concordat of February, 1929), the historical importance of this law, (for almost seventy years the basis of Italian ecclesiastic policy) and the doctrinal reaction to it was such that it is worth while to pause for a moment to examine its content.

The law was composed of two titles: the first, "Prerogatives of the Sovereign Pontiff and of the Holy See"; and the second, "Relations of the State with the Church." The substance of the first title was contained in article 9: "The Sovereign Pontiff is entirely free to fulfill the functions of his spiritual ministry"; and was set forth in a series of dispositions divisible into three groups:

1. Certain prerogatives pertaining to his sovereignty, *i.e.*, the declaration of the sacred and inviolable character of the Pontiff's person, compared in this respect to that of the King, and of his complete irresponsibility and immunity to any jurisdiction; attribution to the Pontiff of sovereign honors and of the preminent honor accorded him by the catholic sovereigns — which was

¹The text can be found in WILLIAMSON, *The Treaty of the Lateran*, London 1929.

equivalent to a preeminence over those sovereigns; recognition of the right to keep a number of armed guards for the protection of his own person and of his palaces; recognition of the Holy See's right to active and passive representation, with all the prerogatives and usual immunities for its diplomatic agents.

2. Certain prerogatives concerning the spiritual ministry of the Pontiff, such as recognition of real immunity for places of continued residence or for temporary dwellings of the Pontiff, and of assembly of the Conclave and of the Ecumenical Council; guaranty of full liberty and freedom from control of the acts of the Holy See's spiritual ministry, and of the secrecy of communications with foreign countries.

3. Certain prerogatives of an economic character: settlement of an annuity of 3,225,000 lire, to be perpetual, inalienable and tax-free, a sum equal to that of the budget of the Roman State for the year 1848, under the title "Sacred Apostolic Palaces, Sacred College, Ecclesiastic Congregations, Secretary of State and Foreign Diplomatic Order"; free enjoyment of the Vatican and Lateran palaces and of the country residence, Castel Gandolfo, with the adjoining estate, which remained the property of the Italian government.

The second title made for the establishment of a system of separation between the State and the Church and guaranteed to the Church full liberty in the whole of the Kingdom: renunciation by the Government of the right to nominate or propose in the collation of major benefices, renunciation of all intervention in the publication and execu-

tion of the acts of the ecclesiastic authority — though retaining intact the principle of governmental approval (*placet et exequatur*) for the destination of ecclesiastic properties and for the provision of benefices (it being prohibited to confer benefices to non - Italian citizens); recognition of the competency of the civil jurisdiction to decide upon the juridical effects of the acts of the ecclesiastic authority; abolition of the bishops' oath of allegiance to the King; abolition of every restriction on the right of the clergy to assembly. Also in the law was the promise of further legislative measures for a new regulation of ecclesiastic property, which, however, were never enacted.

As could be foreseen, even before its passage the Law of Guarantees was denounced by the Clerical party as an unacceptable and humiliating concession by the victor to the vanquished, and was considered non - existent by Pius IX and his successors. The proffered annuity was never accepted, nor were direct diplomatic and administrative relations ever established between the Government and the Holy See.

In spite of this, and in spite of the fact that the Pope's voluntary seclusion made a dead letter of that part of the law which would have afforded his person sovereign honors, it cannot be justly insisted, as it has been by several authors of the Catholic party, that the entire law has remained ineffective. For we may consider that for almost seventy years the Church's activity as a spiritual power was exercised within the juridical structure and under the guarantees created by the law of 1871; and even during the World War the Italian

Government did not abrogate nor even modify the law, although pressure was exerted from many sources for some modification.¹

The specialized nature of the material treated in the Law of Guarantees, involving the most delicate juridical, political and moral problems, as well as the hostile attitude assumed for reasons of confessionalism by the Church and the Catholic party, and the reserved, critical attitude assumed not for reasons of confessionalism but for purely legislative technicalities by an imposing part of world opinion, has caused the most disparate judgements to be passed on this law. It has been termed everything from "a legislative masterpiece of the nineteenth century" to "a paradox," "a juridical monster," and so on. It has also caused the most divergent theories to be maintained for its defense or condemnation, and for the determination of the juridical position of the Holy See after its enactment.

There were some people who saw in the law of guarantees the existence of a concordat; others, influenced by consideration of the moral obligation assumed by the Italian Government with regard to the catholics of the world, recognized it as a tacit, implicit international agreement; others, going still further in this last direction, considered it as constituting a true public obligation of international law.

In Italy, the interpretation prevalent among jurists free from religious preconceptions was that the Law of Guarantees was an internal constitu-

¹See p. 139.

tional law. Hence, by these jurists it was considered a unilateral law of the Italian State, and revocable notwithstanding its having been officially declared "a fundamental law of the State." This interpretation was possible since the Italian constitution did not at that time recognize a technical distinction between ordinary law and constitutional or fundamental laws. The Italian system, it might be noted parenthetically, contrasted with the American system, where the principle of separation between State and Church is incorporated in the Constitution.

Other questions that arose and that were argued at great length after 1870 were closely related: first of all the question of the extraterritoriality, and the question of the sovereignty and international personality of the Holy See.

With reference to the first question, it may be recalled that some writers, especially of the Catholic party, maintained that the Pope, after, and in spite of, the events of September 20, 1870, remained absolute sovereign of that portion of territory (the Vatican palaces) not occupied by Italian troops, and that they therefore were to be considered by Italy as not pertaining to its own territory. These writers would have it that the Papal State was suppressed neither in law nor in fact. This point of view, actually somewhat inexact and insecure, was expressed in its most exaggerated and rather ridiculous form by a writer who, in the midst of a violent anti-Italian campaign conducted during the war by the newspapers in Austria, Germany and the German section

of Switzerland, referred to the Pope as *King of the Vatican*.

Against this point of view it was objected that the taking of Rome was, for the Papal State, a true *debellatio*, and that there had been a juridical if not entirely material occupation of the city, including even that zone which the Italian troops out of respect to the Pontiff had not entered. The Pope's apartment in the Vatican palaces, while being maintained after 1870, might have been radically transformed as regards juridical title, so that possession and sovereignty would have become, according to the precise formula expressed by the Law of Guarantees, simply enjoyment. To forestall discussion of extraterritoriality, arguments were also based on the fact that in a famous controversy taking place in 1882 between the architect and the Prefect of the Apostolic palaces, the Italian Tribunal was held competent to judge, and not the Vatican Tribunal that had been instituted by the Pope to handle controversies relative to the Church's possessions. It was further argued that the inviolability and the honorary prerogatives granted the Pontiff could not have constituted, according to international law, other than an honorary and not actual sovereignty; in the same way, royal immunity in the places he occupied could not have implied extraterritoriality, for the reason that such immunity was foreseen as transferable to every place in the kingdom where the Pope might temporarily have remained in the event that he left the Vatican.

The problem of the sovereignty of the Pontiff and of the Holy See, to which we have referred,

is a much vaster problem than that of the juridical nature of the relation between the Holy See and the areas that it occupied after 1870. For, together with the problem of the juridical personality of the Church, it transcends both the systematic terms of the duration of the Law of Guarantees, and becomes a problem of international nature. Nevertheless, we should not lose sight of the close connection these questions have with the Roman Question, a connection that may be clarified by the following considerations.

The free exercise of the Church's mission in the world had, since the beginning of the nineteenth century, undergone profound innovations, due to the rise of the Papal State in accordance with the public law of changing times, and to the consequent confusion (though less apparent) between the figure of the Pontiff as head of the Universal Church and the figure of the Pontiff as Head of the Papal State. This was not so much a doctrinal or theoretical confusion as a practical one, in the sense that the Pontiff, to exercise his spiritual mission as Head of the Church had found it necessary to use the same legal means that he had used in his quality as Head of a State.

In fact, when the Congress of Vienna on March 19, 1815, in establishing the regulation for diplomatic agents, included the Papal legates and nuncios in the first class, it certainly did not intend to render a similar honor to the head of a small state of a few million inhabitants. Nor did the Pope, for his part, ever intend to act simply as Head of the State when exercising through his legates the very severe control over the various

churches of the individual nations that Canon law allows him to exercise. Such control would represent, of itself, a violation of the international principles of non-interference by the diplomatic agents in the internal affairs of the states to which they are accredited. Nevertheless, the recognition of the Pontiff's right to active and passive representation, independently of the precise quality attributed to him and of the use to which he put it, signified the application of one fundamental norm of international law.

The same may be said for those concordats based on a diplomatic treaty negotiated and signed by the parties according to the international protocols in the same form that has been used from the eighteenth century to the present day. A typical example is the Napoleonic Concordat of 1801; and another more recent, the Concordat of May 30, 1922, with Letonia, ratified and recorded as a true international treaty. Here too, then, as in the case of the right of legation, we must agree that the spiritual mission of the Pope as Head of the Church was exercised through the forms of international law. In other terms, there was the application of the norms of juridical regulation in force between States to an entity that is not however a state, such as the Catholic Church with the Holy See as its representative.

Now this singular *de facto* and *de jure* situation was thrown into sharp relief by the events of 1870. Before that time, the existence of the Pope's temporal power had rendered the doctrinal distinction between the diverse qualities invested in the Pontiff not exactly impossible, but at least

not necessary. On the contrary, from the moment that the Pope practically came to exercise an authority purely and exclusively spiritual and, this notwithstanding, it was insisted that his position in the world would remain not only substantially but formally identical and immutable, there was what we might term the quasi-experimental confirmation of this fact: that those norms of international law of which we have just cited the most significant examples would be applied perhaps exclusively to the Holy See as the central organ of the Universal Church. In other words, the events of 1870 had the effect of placing in the scientific sphere a question that at first could not be well understood — the question of the juridical international personality of the Holy See and of the Church as a purely spiritual entity, beyond all influence of a governmental kind. This was the result essentially of the Law of Guarantees, in the sense that from the discussion about the law's juridical nature and effects, this point had emerged: the law had not created the juridical international personality of the Holy See, because this already existed, but had furnished the occasion for its explicit recognition and for its systematic doctrinal elaboration. Independently, then, of whether the Law of Guarantees was to be considered an international act, or an internal law passed as the fulfillment of an international obligation, or an internal and revocable law, it had the value of arousing discussion about the international nature of the Universal Church and of the Pope as an authority non-governmental but purely spiritual.

For a thorough understanding of the contrasts that these problems raised for more than half a century in the doctrinal sphere, three points of view must be taken into consideration: That of the Church, which we shall call orthodox and confessionalist, based on its natural and positive divine juridical order. That of the State and of the non-confessionalist publicists' doctrine based on positive juridical order. That of several recent doctrines intended to reconcile these two opposing points of view.

From the Church's point of view, the question rests entirely on dogmatic principles, and may be explained in a few words. The juridical personality (in the widest and most comprehensive sense of the term) of the Church belongs to it as a public institution by divine right. Starting from the principle that the ecclesiastic organization is superior to all other human organizations, the Church cannot possibly admit that, to achieve its ends, it possesses less efficient and less perfect means than those possessed by the State—as in fact would be the situation if the States had a juridical personality, and the Church did not. This personality is therefore a part of that fullness and perfection of means that the Church cannot lack, because of its supremacy and perfection, or in a word, the supernaturalness of its ends.

Equally essential in this regard is the canonical doctrine concerning the pontifical primate, definitely formulated and established on the eve of 1870 by the constitution *Pastor Aeternus* of the fourth session of the Vatican Council, and today contained in canon 218 of the *Codex Juris*

Canonici, the legislative law governing the Church.

All this helps explain the intransigent attitude of the Pope toward Italy's decision to regulate in a unilateral manner the position of the Holy See after 1870, although it is also true that Italy was induced to make this decision because of the Pope's absolute intransigence. It is certain that in the sphere of pure doctrine, it was impossible to reconcile the points of view which caused the disagreement, inasmuch as the temporal sovereignty of the Pope, differing from every other temporal sovereignty, was based also on the canonical and dogmatic claim that the Pope was above all rulers of the world. In other words, the necessity that the Pope be sovereign of a State was derived from a regulation that, for one of the parties, was more religious than juridical, and that was stated to the other party as an obligation to recognize without any question whatsoever.

From the point of view of non-confessionalist and lay doctrine as well as of international law, the question presented itself in a much more complex manner.

We face here the grave problem of the subjective quality to recognize in the Church in the world of law, or, in other words, the problem of the juridical personality to attribute or deny to the Church. It is easily understood that the solution of such a problem and even the comprehension of its elements. is under the immediate influence of the usual concept held of the juridical personality as general doctrine. This is one of the most difficult theories of common public law;

and certainly this is not the place for an adequate scientific exposition. Without going too much into details, we may point out that the dominant school, entirely disagreeing with the doctrines supported by canon law and catholic tradition, considers legal personality as something thoroughly artificial and fictitious, not appertaining *per se* to the world of things, but as the creation of the juridical order, as the concession of the law. Hence it will be easy to understand that, in the international field and with regard to the Holy See, the problem should be put in this manner: can international legal personality be attributed to or recognized in an entity having such constitutional peculiarities as the Holy See and the Universal Church?

But the solution proved to be not easy to find; and in fact in no subject such as this have there been more disparate or more contradictory opinions. Everything has been contested — that the Holy See was a juridical person; that the Holy See was a perfect society; that it was subject to international law; that the Pope was a sovereign. Every possible epithet has been applied with regard to the sovereignty and personality of the Church — that it was “fictitious,” *sui generis* — *de facto* — “tolerated” — “inconceivable” — “privileged” — “particular” — “anormal,” — “apparent.” And there have been many other expressions as ingenious as they were unilateral, all more or less implying a negation of the full, juridical, international personality of the Holy See.

We shall indicate a few of the more salient of these complex currents of ideas.

It is known that up to the last ten years, students of international law were in agreement that international personality did not appertain to entities other than States. It is also known that the most recent doctrine going in the opposite sense admits, besides the States which are the normal and typical subjects of international law, the existence of anormal or atypical subjects. Some authorities have even rejected the doctrine that only States can be subjects of international law, and have admitted full personality or subjectivity to non-statal groups; *i.e.*, the Unions of States, the League of Nations, the Dominions and the Colonies in determinate conditions of autonomy, populations and territories under mandate, belligerents, insurgents, and still others. The juridical position of the Holy See in the international sphere is bound to this doctrinal evolution; we might even say that the Holy See has been, indirectly, the most efficient agent in its development.

The oldest and most restricted theory, of which we have spoken, was supported essentially by the traditional definition of international law as a system of norms regulating the relations between States. Now, since the Church could not be called, according to the traditional and strictest meaning of the word, a State, it seemed absolutely impossible to include it among the subjects to that system of norms. It was therefore preferable to negate the international personality of the Holy See rather than modify and extend the principles of the doctrine.

In time, many similar unstable and strict doctrinal positions were abandoned, due in large part

to the fact, experimentally decisive, that the Holy See itself, after 1870, offered an incontestable example of effective sovereignty and living international personality, although lacking many of the essential attributes of a state.

Not all the commentators profited, however, by this lesson given by history. There was, in fact, a doctrinal current that remained faithful to the old definition of the international personality. And when reconciliation was attempted between reality of fact and theory, as regarded the Holy See, exponents of this doctrine had recourse to compromises. Thus Oppenheim,¹ maintained that the Holy See under certain aspects was considered "as though She were an international person," and added, "it must therefore be maintained that by custom, by tacit consent of the members of the family of Nations, the Holy See has a quasi-international position."

This idea of a quasi-international position of the Church met with a certain degree of fortune. Professor Verdross,² who rejected the distinction between normal and anormal subjects of public law and substituted regular and irregular subjects, according to whether the norms of the public law were applied in their totality or only partially to such subjects, did not hesitate to assert that the universal Catholic Church represented by the Holy See was not a normal member of the Society of Nations. He observed, in fact, that interna-

¹OPPENHEIM, *International Law*, London 1928. §26.

²VERDROSS, *Die Verfassung der Völkerrechtsgemeinschaft*, 1926, p. 117.

tional law as far as it regulated essentially international relations, was only in slight measure applicable to the relations between the States and the Church.

Another point of view was that of the German publicist, Professor Knubben.¹ Professor Knubben included the Pope with those possible subjects of international law which he called *fragments of States*, or, to use a less literal translation but one more faithful to the expression *Staatsfragmente*, among the entities partially endowed with state characteristics. He recognized in some way the spiritual sovereignty of the Pope as Head of the Catholic Church, separating it, with rigorous juridical proceeding, from His temporal sovereignty. But the difficulty began when, because his discriminatory criterion was based essentially on the greater or lesser degree of similitude between international entities and the State, he was forced to compare the Church to other entities. The Church, he said, could and should be considered as something analogous to the State, but in a lesser degree than are the other fragments of State and certain *de facto* governments having characters of temporal, local authority. The Church had, with respect to these other entities, a greater similarity to the State, because of the fact that it possessed a sovereignty; but the similarity grows less, as far as the international relations between the Church and the States are concerned. According to Professor Knubben's theory, these international rela-

¹KNUBBEN, *Die Subjekte des Völkerrechts*, in *Handbuch des Völkerrecht* of Stier-Somlo, Stuttgart 1928, p. 326.

tions would have had in common with international relations only the international *form*. In other words, only formal international law would have been active in the relations with the Church, and not that material, continuous international law created exclusively for relations between States, because of the Pope's lack of temporal sovereignty.

In Italy, Professor Romano¹ maintained that the Pontiff was a subject *sui generis* of international law, to whom not all the norms of international law were applicable.

Professor Sitto Pintor,² coherently with his distinction between international *personality* (fullness of rights, though limited in their effective exercise, in a given legal sphere) and *subjectivity* (any relation between a legal entity and a legal order, even if concerning only a single norm), according to which only States can enjoy personality, considered the Church as one of the subjects of international law, but one with ample subjectivity. His doctrine is notable for the fact that he attributed this subjectivity rather to the Universal Church than to the Holy See.

Other writers, such as Professor Falco,³ although recognizing the international personality of the Holy See as the central organ of the Church,

¹ROMANO, *Corso di diritto internazionale*, 1929, p. 64.

²SIOTTO PITNOR, *Les sujets du droit international autres que les Etats*, in Rec. des cours de l'Ac. de La Haye, 1932 III, p. 277.

³FALCO, *The legal position of the Holy See before and after the Lateran Agreements. Two lectures*, Oxford 1935, p. 15.

denied concisely the possibility of attributing such personality to the Universal Church, for the reason that its very universality prevented it from taking part in the community of Nations. The Church was a super-statal entity, and at the same time an entity having an organization similar to the internal organization of individual States: two reasons why its international character, in the strict sense, would be excluded.

The points of view that we have noted so far and that we have chosen from the most typical of the modern doctrine, allow us to constate that the Holy See, of itself or as representative of the Universal Church, must have an international personality substantially atypical, in the sense that international law would not be applicable in its entirety, and could not find in the international sphere an equal footing with typical and perfect persons: the States. This limitation, let us note parenthetically, does not implicate, however, the idea of a subordination of the Church to the State. In the category of the international, extra-statal entities, in which the Church would be placed, many authors agree in understanding super-statal entities such as the international Community and the League of Nations, as well as inter-statal entities such as the Organic Unions of States.

As to the source of the international personality of the Holy See, according to the aconfessionalist schools, that personality comes from the same source of every other form of personality: the positive law, or the will of the State. The problem of knowing what are the international juridical persons is changed into this other problem:

to what entities do the States direct the norms of international law?¹ This means that without recognition an entity could not be subject to the juridical international order. The territory and the population may be lacking, the purpose may be lacking or not be objectively recognizable, and the will or the full sovereignty may be lacking; but there may not be lacking the recognition, explicit or implicit, that is really the indispensable factor for existence in the international Community. The Church would therefore be a person of international law if, and as much as, it had been recognized as such. There has been much discussion also of the nature and the extent of this recognition. Some authors, of course, have considered it as a favor granted to the Church by the State, others as the fulfillment of a moral and juridical duty. Others have considered it as constitutive of the legal personality of the Church, and still others as simply declarative, according to whether they were admitting or denying the preexistence of this personality.

Another debated question has been about the manner in which could be manifested the recognition of the juridical personality of the Church according to the principles of international law. In the first place, the Concordats have been taken into consideration, and the question has been asked if they are true international treaties, at least in form. It was Professor Anzilotti² who dis-

¹STRUPP, *Grundzüge des positiven Völkerrechts*, 1922, p. 36 seq.

²ANZILOTTI, *Corso di diritto internazionale*, 1928 p. 128.

sipated the equivocation into which certain writers had fallen; among these was Professor Hinschius, who argued that the Concordats were not treaties, because the Church is not a person of international law, and who was forced at the same time to proceed to the opposite argument that the Church is or is not an international person according to whether or not the Concordats are comparable to treaties — that is, referable or not to the international juridical order. To this statement of the problem various answers have been made.

Some writers have contested the possibility of reducing the Concordats to fundamental criterions that determine the juridical nature of the international norms, because of the fact that the contracting parts of the Concordats are not in agreement about the juridical basis. (It may be noted that until lately, authorities on canon law have been faithful to the so-called curialistic thesis, by which the Concordat would be a concession that the Pope, in virtue of his supremacy, makes to the State according to the principles of canon law only.) The non-orthodox publicists have, instead, for a long time sustained the opposite so-called royalist thesis, by which the Concordat would be placed only on internal positive law and would be in other terms a concession made by the State, the only sovereign, to the Church, a subordinate entity. But this argument has also been reasonably disputed by Professor Anzilotti, who demonstrated that the Church and the State, as to the Concordat, stand face to face on a mutual treaty, and this fact makes both the preceeding theses out of the question. Either of the two parties may hold

any idea it pleases as to its superiority to the other; but if the two parties decide to negotiate, by this they necessarily place themselves in a condition of absolute parity. The Concordat stands entirely on the principle that *pacta sunt servanda*, and on no other juridical principle. Hence it is necessary to distinguish, on one side, the norms of canon law whose application and recognition from the contracting state the Church obtains through the Concordat, as well as the norms of internal law that the State customarily issues for the execution of the Concordat, and, on the other side, the norm that upholds the Concordat itself in its entirety as an international act. And since this, as we say, is the norm that upholds the entire law of nations (that is, that the pacts must be observed), the formal analogy may be said to be demonstrated.

Another typical example of the recognition of the international juridical personality of the Church has been seen in the active and passive diplomatic relations maintained with the Church by the Catholic and non-Catholic States, by means of which both entities have demonstrated that they wished to conform to international juridical norms, generally customary, to the formation of which they contributed of their own will.

Besides these examples of the international recognition of the Church and the Holy See, there have been others in its diplomacy, such as the intervention and the mediation of Leo XIII in 1885 in the controversy between Spain and Germany regarding the Carolina Islands, the arbitration in 1898 for the delimitation of the frontiers between

Haiti and San Domingo, the arbitration of 1909-10 between Brazil and Bolivia on one side and Peru on the other, and the intervention to define the position of France in its function of protector of Christians in the Orient. Still more recently, in 1929, in the treaty of arbitration between Spain and Peru, the obligation was stipulated to defer the settlement of the eventual controversies to the supreme judgement of the Pope.

Now from our point of view, the fact is significant that in all the doctrinal polemics concerning the necessity and the nature of recognition of the Holy See, the Law of Guarantees has been taken by both sides as a decisive argument for the support of their individual thesis. It has been defined a creative act of the international personality of the Holy See by the most intransigent supporters of the anti-papal thesis, while for the supporters of the opposite thesis the law has signified necessary, even obligatory, recognition of a pre-existing *de facto* State. Between these two extremes there has always been a series of intermediate theses and arguments.

From this brief review of the efforts of the publicist doctrine to admit into its system the international personality of the Church and the Holy See, we can see how much historical example, strengthened by the Church especially after 1870, forced the internationalists to enlarge the traditional concept of international personality to include non-statal entities. We can also see that they did not succeed in placing the Church in a position of absolute parity, on the international basis, with the States. The various distinctions be-

tween subjectivity and personality, and between typical and atypical personality, applied to the Church, have only demonstrated the necessity of a fundamental revision of the entire system. It is singular how this necessity was always felt by many positivists and how they gradually were brought to introduce into their interpretations concepts that implicated doctrinal premises not always in conformity to those from which they had started.

Of these concepts, one of the most important is the concept of spiritual sovereignty. Many of the authors, whom for brevity we have called positivists, use this expression in reference to the sovereignty of the Holy See and the Church. The expression is mentioned and implicitly admitted by all authors who understand in the Holy See an entity comparable to the State, or analogous to the State, in so far as the fundamental element that brings State and Church together is precisely sovereignty, in spite of all the possible different treaties, and in spite of the disparate qualifications attribute to the ecclesiastic (spiritual) sovereignty.¹

Other authors recognize it explicitly. In Italy, Prof. Anzilotti, for example, whose theory of the Concordats we have summarized above, implied a recognition of the spiritual sovereignty of the

¹IMBART DE LA TOUR, *La papauté en droit international*, Paris 1893, p. 10; HINSCHIUS, *Allgemeine Darstellung der Verhältnisse zwischen Staat und Kirche*, in Hdb. of Marquardsen, 1^o, 1, p. 275; LINDEN, *1st der Papst Souveraan?*, p. 51; SURVILLE, in: *Revue critique de législation et de jurisprudence*, XLIII (1894) p. 267.

Church in its precise juridical significance, and of the relative consequences in the sphere of international personality, even though obtained by a method that presupposes the fundamentals premises by positivism.

The rupture with the classic doctrines and the formulation of the conciliatory doctrine of the two points of view so far explained, orthodox and heterodox, has been due to the work of a school of Catholic internationalists with whom the name of Le Fur especially is associated.¹ And the point of least resistance attacked in the first system was the theory of sovereignty.

It is well known what this theory has meant, from Kant to Kelsen. Influenced by historical reasons, the study of which would be interesting but would bear us too far from the subject, sovereignty was conceived as something indivisible, exclusive, unlimited, and as something essentially of government. Starting from the principle of the omnipotence of the State, law was conceived as an emanation of the State, almost as something consubstantial with it. The determination of the actual limits of the State's power was, as is known, attributed to the State itself.

It is to the credit of contemporary public law that it was denied that the concept of sovereignty was inseparable from an absolutism rendering impossible the harmonious coexistence of various

¹LE FUR. *Etat fédéral et confédération d'Etats*, Paris 1896; The same, *Le droit naturel ou objectif s'étend-il aux rapports internationaux?* in: *Revue de Droit international et de législation comparée*, 1925; The same, *Le Saint-Siège et le droit des gens*, Paris 1930.

spheres of law in the structure of the State or between States. The soundness of that notion has been proved by a study of the excellently constituted American federal government.

For, granted that a government could not exist without sovereignty, and if this sovereignty were absolute — that is, did not admit the possibility of any division or distribution among diverse entities — it followed that a government such as that of the United States could not exist; since if absolute and unlimited sovereignty were attributed to the individual states, the federal government would be negated, and if, inversely, absolute sovereignty were attributed to the federal government, the existence of the individual state would be negated.

For analogous reasons the theory of sovereignty as an absolute power rendered impossible the existence of international law, which tends to set limits to the absolute sovereignty of the States. Thus, it was admitted that the sovereignty of the State might be compatible with the existence of other juridical orders that were in harmony with each other. Another consequence of this renewed tendency was the revival, under other aspects, of those principles of the school of natural law according to which it would not be the State that creates the law and sets the limits of its authority, but rather the objective law that would be therefore in a certain sense logically preexistent in the State itself. In such an order of concepts the sovereignty would be for the State what liberty is for the individual: a faculty of self-determination, but within the limits of objective law, and in con-

formity with the collective purposes that it is called upon to realize.

But once it is admitted that the State does not have authority in a determined sphere, it is implicitly admitted that any other entity, of a nature and purpose diverse from the State, may occupy, so to speak, that sphere. And if the diverse spheres refer to different activities of the human spirit, the result is that for the same individual (and also for the same territory) there may be two sovereigns.

Given these premises, the problem of the sovereignty of the Church appeared under a new aspect. To ask if the Church is or is not sovereign was equivalent, according to these authors, to asking if in the sphere in which the Church can and wishes to exercise its sovereignty, the sovereignty of the State was or was not excluded. And since the Church aspires to a sovereignty exclusively spiritual to achieve its ends purely religious, that is equivalent to asking if the religious purpose and the spiritual sphere was or was not in competition with the State.

This is the setting given by the problem; but it is not the solution. It could not be solved by taking the point of view of the Church and of what, though founded on dogmatic principles, are its objectives. It was also necessary to take the point of view of the State and of the publicists' doctrine, and in its sphere to find a juridical principle that justified the solution.

This principle was revised by the new school in a postulate of the school of liberal publicists which, though steeped in positivism, had contrast-

ed the dogma of the omnipotence of the State, not in the name of the supremacy of law, but in the name of individual liberty: that is, in the postulate of religious freedom. Religious freedom, as it is well known, in its widest significance of liberty of conscience and worship was first established according to the scheme of subjective public laws (and was not, therefore, considered as a benign concession of the State to the subjects, or simply as religious tolerance), and was soon affirmed to be of itself a principle of international law after the treaties of 1919 had imposed on the States, under the sanction of intervention, the obligation to respect and guard the religious faiths of minor ethnic groups.

Now, it is evident that this principle implies *per se* a limitation of the sovereignty of the State. On one part, this principle would be the effect of auto-limitation wished by the State itself; on the other part, it would be the effect of a limitation sustained by an extra-governmental juridical principle, justified by the supremacy of individual interests. In both cases, there still remains the public law allowing the individual religious freedom, and the corresponding duty of the State to withdraw, so to speak, its own sovereignty from the spiritual sphere. This implies in the individual himself the right, or better, the faculty, to submit his spiritual activity to the sovereignty of the entity that, because of its nature, can in that sphere exercise it: the ecclesiastic entity. But once a moral person exercises his spiritual sovereignty even in the external order, that person should have, as a consequence, an international juridical personality. This

would be a full personality, and normal as that of the States, having been founded on an element substantially equivalent to the element that is at the base of the international personality of the States: sovereignty.

This is the conclusion arrived at by Le Fur and his school. It may be called the best attempt made up to the present day to conciliate the two opposing points of view, internal and external, confessionalist and non-confessionalist, on the international personality of the Church.

Without going into the criticisms that have been made regarding this doctrine, it may be noted that its spirit is not new in the sphere of the Church. With the exception, naturally, of the necessary disparity of terminology, the idea of the spiritual sovereignty of the Church is as old as the Church itself. It has always been the most potent arm that the Church could use where the civil authorities were concerned. When the Pope during the Middle Ages occasionally freed the subjects of a certain political community from the oath of allegiance to their temporal sovereign, he did nothing more than profit by his own spiritual sovereignty combined with what by antinomy we may call his material sovereignty as a temporal ruler over the subject communities. Thus, also, when for centuries the States recognized in the ecclesiastic tribunals exclusive competency in certain matters, they recognized a spiritual sovereignty of the Church over a sphere of activity of certain individuals, who, where other spheres were concerned, were subjects of the political authority.

After this summary of the doctrinal controver-

sies on the figure of the purely spiritual sovereignty of the Church (controversies that were increased still more by the changes of 1870), we may return to the historical-political development of succeeding events. From one general point of view, it may be said that the period in which the Law of Guarantees was in effect, was one of continual alternation between plans for conciliation and manifestations of intransigence.

Certainly there are few historical subjects as singular as the relations between the State and the Church in Italy during the period 1870-1929. The following chapters in this book will show the very special character of these relations. As a general idea, the contrast between form and substance must be remembered. It was always a disagreement of form. Until the Conciliation, the two powers ignored each other; for example, on formal, solemn occasions every Pontiff that reigned during that period renewed in an equally intransigent form the protests against the Italian Government, and declared it to be a "usurper." But beneath this external contrast, the situation demanded continual relations that were maintained with great skill and moderation by both parties.

As said before, the manner of carrying on these relations will have to be explained more at length in the following chapters, and especially in those dealing with the pontificates of Pius X and Benedict XV. We may indicate here several more outstanding moments that have an important place in history because the antagonism was more violent, and because at that time there was search for

a conciliation which when reached gave to the relations a definite pacific systematism.

A number of times during the Pontificate of Leo XIII (1878-1903) the relations with Italy became so acute that there was the possibility of the Pope's leaving Rome. The first time this occurred was in the summer of 1881 on the occasion of the anti-papal riots stirred up by the anti-clerical parties and inadequately repressed by the government. In March, 1882, Baron Huebner was sent to Rome by Austria, and offered the Pope hospitality in that country — though Baron Huebner also advised him not to abandon Rome. This was again spoken of in 1884 when concerning some properties of the *Congregazione di Propaganda Fide*, that had been ordered by the Italian Government to be confiscated and sold, the Italian tribunal ruled against the *Congregazione*. In 1888-1889, following new anti-clerical demonstrations caused in Rome by the Masonic party, the Pope's departure was spoken of more seriously, and there were negotiations with several Catholic powers, especially with Austria. Finally, toward the end of 1891, it was rumored that the Pope would leave; but fortunately nothing came of this.

On many occasions conciliation was spoken of, and even seemed possible. The first series of favorable events was in 1886-87, commencing with a letter from the Bishop of Cremona, Monsignor Bonomelli, to the Pope, in which the hope was expressed of a near "pacification." In January, 1887, in a conversation between the Cardinal Parochial Vicar of His Holiness and Monsignor Anzino, head chaplain of the Royal Family, the

possibility of settling the Roman Question was openly discussed. It seems the Holy See had indicated that it would be satisfied with a strip of land, a "corridor," from the Vatican to the sea, whereby it could communicate directly and freely with the Catholic world. After this the Pope, on May 23, spoke in the Consistory where votes were taken for a settlement of the "painful discord," and such that "the Roman Pontificate should not be subject to any authority whatsoever, and should enjoy full and true liberty." The repercussion that the conciliative and promising words of Leo XIII had on the Italian people was further augmented on the 31st of the same month by the appearance of a pamphlet by Father Tosti entitled "The Conciliation," supposed to have been inspired by the Pope. But the hopes and illusions lasted only for a short time. In June, the intransigent Vatican party obtained a public renunciation by Father Tosti, and the same Pontiff, in a letter dated June 15 to the Secretary of the State, completely reassumed the tone of intransigence and hostility that he had abandoned in the Consistory of May 25.

New hopes arose two years later when an anonymous pamphlet came out by Monsignor Bonomelli: "Rome and Italy and the reality of things" (March 1889). This pamphlet frankly admitted the impossibility of reestablishing the temporal power and the relative, though not absolute, necessity of such power to guarantee the independence of the Pontiff. The author also proposed as a basis of conciliation the concession to the Pontiff of the Vatican along with a few square kilometers of surrounding territory and a strip to the sea: a

miniature State. But the intransigent party prevailed again this time. The book, disapproved by the Holy See, was listed in the index, and the Bishop of Cremona was forced to retract his statements.

The Pontificate of Pius X (1903-1914) is the subject of one of the following chapters. Here we may only say summarily that in this great Pope were combined in perfect harmony the sense of the universality of his ministry as Head of a Universal Church, with a profound Italian spirit. Thus — though it may be less apparent — to that period we owe the first and perhaps the most difficult conciliation: that of the spirits. Formally, Pius X reaffirmed the existent dissension in the usual instances, and protested against the visit to the King of Italy by the President of the French Republic, Loubet, the first head of a Catholic nation to visit “The Usurper.” But as an episode of conciliation, even in a formal sense, may be remembered the revocation (June 1905) of the prohibition posted by the Church in 1857 and reconfirmed by Leo XIII which forbade Italian Catholics to participate in political activity.

The pontificate of Benedict XV (1914-1922) will also be treated more fully in the following chapters. This period was characterized by two facts: a truce in the internal polemics due essentially to the war that imposed on the conscience of Italians many other and more tragic problems than that of the Roman Question, and a singular blossoming forth of Austrian-German projects for the solution of the Question, all having the one precise political purpose — to punish Italy for her

entry in the war against the old Triple Alliance. From these projects there emerged one elaborated by the German Foreign Ministry and approved by the Austrian Emperor, the author of which was Erzberger, head of the German Bureau of Propaganda during the war. According to this plan, that for many aspects was compared to the Lateran Treaty, it would have been necessary to recognize the temporal power of the Pope in a territory comprising the Vatican and a strip of land running to the sea. This project is considered more fully in Chapter III.

Immediately following the war, in 1919, certain negotiations were carried on in Paris. One section of this book is devoted to the history of these negotiations. In substance, the accord was at that time completely reached; that it was not actuated, depended on a condition external and independent of the will of the contracting parties. Not without reason, therefore, a certain phase is here defined as "the preconciation."

In this first phase the accord was based on all that which was to constitute the systematism, let us say territorial and political, of the Holy See — the constitution of what was later called the State of the Vatican City. During this first period, however, the part that constituted the Concordat of 1929 was not discussed nor, especially, the transference to ecclesiastic authority of all that regarded the marriage of Catholic Italian citizens. These subjects were not discussed in 1919. Given the political situation of the times, it may be said that the accord would not then have been reached on these points. But, to repeat, as to what regards

political and territorial systematism, the accord was reached during 1919 in a manner similar to that of 1929. A formal conclusion by treaty was not made, not because of a condition, but because of a term; for I had at that time, as Head of the Italian Government, declared that the actual conclusion had to be postponed to a moment of greater political tranquility, because of the profoundly disturbed condition of the nation over the uncertain issue of the Peace Conference. This term that suspended the conclusion of the negotiations of 1919, was completed ten years later in 1929, with the conclusion of the Lateran Accords.

As said before regarding the Pontificate of Pius X, such accords had been preceded for more than twenty years by an attenuation of tone in the polemical literature, always prolific, on relations between the Italian State and the Church. From the violent and factious manner of the nineteenth century, it passed in the twentieth century into a more objective and comprehensive valuation of the respective aims. So also in the attitudes of the conflicting parties, though some of the fundamental principles of the respective texts were not abandoned, a spirit of conciliation and moderation was evident, which made it possible to surmount certain obstacles that seemed irremediably against any friendly solutions whatsoever.

From the side of the Church it should be noted that in the various projects for conciliation, though non-official and though openly denied, greater headway was made with the idea that the Holy See would have to content itself with a territory much more limited than that which in 1870 it was

insisted should be restored. To content itself with the Vatican and with its immediate vicinity meant that even a minimum portion of Italian citizens who were not laic or ecclesiastic functionaries of the Holy See could not be subject to the Pope's sovereignty; for this was a subjection that after the plebiscite of 1870 Italy would not have been able to tolerate. Equally significant was, from the side of the Church, an entirely new attitude of faith toward Italy and its government that found its first expression in the words pronounced on June 27, 1915 by the Cardinal Secretary of State, Gasparri: "The Holy See places its faith in God, awaiting the convenient systematism of its situation not by foreign arms, but by the triumph of those sentiments of justice that it is hoped continue to be diffused among the Italian people." These words have much more intrinsic and political value when it is recalled that the great war was raging; and it was therefore justly said by a historian of the Roman Question, Bastgen, that while Pius IX called on foreign princes, his successor, instead, called on the Italian people. Thus with the renunciation by the Church of the internationalization of the Roman Question, another obstacle in the way toward pacification that Italian national dignity could not otherwise have surmounted was removed.

The purpose of this book is to present a historical documentation of Italy's continual efforts for a conciliation which were first made during the time of the great-spirited Pope Pius X, continued under Benedict XV, and which, aided by the formidable trial of the World War, reached a

decisive point by means of the accords concluded in Paris in 1919. The extremely disturbed period that Italy underwent immediately after the war arrested the actualization of the plan; under the Fascist regime, the initiative had to be retaken, not only to reach the immediate ends, but to actualize them in a much larger manner, and, still further, to inspire them with a different conception of the relations between Church and State.

The spirit of the new regime was, in fact, particularly in contrast with liberal doctrines, among which was included, in ecclesiastic matters, the principle proclaimed by Cavour with the celebrated formula: "a free Church in a free State." By this formula every reciprocal obligation was denied, and the full independence of both powers affirmed, each of the powers remaining with its own attributes within its own sphere of activity. Repudiating such a tendency, the Fascist regime, besides giving territorial systematization to the Holy See by the creation of the so-called "State of the Vatican City," defined the relations with the ecclesiastic authority through a Concordat; so that for the separation of the two powers there was substituted a certain political solidarity between them. Thus after difficult negotiations conducted secretly since 1926, every obstacle was removed and the Roman Question was settled with the agreements signed February 11, 1929 in the Lateran palace by Cardinal Gasparri, Secretary of State for the Holy See, and by Premier Mussolini, Head of the Italian Government. With the exchange of ratifications on June 7 of the same year, these agreements, known as the Accords, were put into effect.

The Accords consist of a Treaty, a Financial Settlement, and a Concordat.

The Treaty, composed of 26 articles, is preceded by a preamble in which the Roman Question, begun in 1870, is declared definitely and irrevocably settled. Reconfirming numerous dispositions already contained in the Law of Guarantees, the Treaty declares the person of the Pontiff sacred and inviolable, and for offenses and attempts against the Pontiff authorizes penal action equal to that allowed for similar attempts against the person of the King; it recognizes the Holy See's right of active and passive legation (allowing, in addition, the accrediting of an Italian ambassador to the Holy See and of a Pontifical Nuncio to the Italian Government); for ecclesiastics participating outside the Vatican in acts of the Holy See, it guarantees the immunity from all intervention of the Italian Government; it guarantees the immunity of the Cardinals during the recesses of the Holy See and the liberty and security of the Conclave.

It differs sharply, however, from the Law of Guarantees in the recognition and reaffirmation of the principle — already affirmed in article 1 of the Statute of the Italian Kingdom of 1848 — that the Catholic religion is the only religion of the State; it recognizes full and immediate civil juridical efficacy to ecclesiastic judgments in spiritual and disciplinary matters regarding ecclesiastic persons; it expressly declares that to the Pontiff pertains exclusive and absolute authority and sovereign jurisdiction over the Vatican City, and attributes full propriety to that territory. Dispositions resumed and reconfirmed in the solemn reciprocal

recognition by the contracting parties contained in article 26: The Holy See recognizes the Kingdom of Italy under the rule of the house of Savoy, and Italy recognizes the State of the Vatican City under the sovereignty of the Pontiff.

The Financial settlement establishes the payment of a certain sum to the Holy See by the Italian Government (750 million lire, part in consols and part in cash), title to a partial compensation for the damages suffered by the Holy See following the loss of the Pontifical State and the confiscation of the properties of the ecclesiastic entities suppressed, and title to a definite systematization of its financial relations with Italy because of the events of 1870.

The Concordat, considered by the contracting parties as a necessary complement of the Treaty for the regulation of the position of the Catholic religion and of the Church in Italy, establishes a juridical system in sharp contrast with the former one founded on the Law of Guarantees, which is hereby declared abrogated. The State renounces the historic rights by which it gave its approval of the nomination to major benefices (bishops) and to lesser benefices (parish priests), the approval on which depended the enjoyment of the income and donations. In certain cases, this nomination was entrusted to the King; now it is only necessary for the Holy See to ask, for the nomination of bishops, for the Italian Government's approbation from a political point of view. There is again given to the ecclesiastic entities the capacity, that was taken from them by former laws, of acquiring and possessing. The possibility is admitted of

recognizing them as juridical persons. Religious instruction is established in the schools. The religious ceremony of marriage is recognized as legally binding by the simple formula of transcription in the registers of the Civil State. Judgments handed down by the ecclesiastic tribunals annulling religious marriages are recognized as valid in civil law.

These are the principal parts contained in the Lateran Accords, which have both put an end to the Roman Question, and have substituted for the separatist regime, (that had up to that time determined the ecclesiastic policy of Italy) the regime of the Concordat.

But here, naturally, it is asked: Has this solution of the Roman Question been obtained through the reestablishment of the Pope's temporal power?

The answer is not as easy to give as might seem at first sight. In a discourse on May 13, 1929, the Head of the Government, Mussolini, declared: "We have buried it." But on the other hand, it cannot be denied that to attribute the power of a State to the Holy See, in the exact sense of the word, corresponds to that which was the official point of view of the two contrasting parties when the Treaty was drawn up. Beside what was intended, a clear determination is expressed. In article 3, in fact, after it is stated that to the Holy See belongs the sovereignty over the territory attributed to it, it is precisely declared that "in that manner the Vatican City is created"; and further on it is declared that "Italy recognizes the State of the Vatican City." These expressions do not allow of any doubt; and, moreover, writers who

hold that the Vatican City is a State, present as the first argument for their assumption the definition given by the Treaty itself.

Let us say at once, without hesitation, that we cannot recognize any effectiveness in that argument. A definition cannot be made obligatory even by legislative command; whether it will be true or in error depends on whether or not it agrees with reality. This is, no doubt, the inner meaning of the well known remark the English make about the omnipotence of their Parliament: it can do everything but change man into woman. And as a matter of fact, even if it were declared that in law women are men, women in spite of parliamentary omnipotence would remain women! As long as the legislator orders the fulfillment of, or abstention from, a determined act, the citizen must obey; but if the legislator proceeds to the definition of a concept or of a thing, he cannot compel any obedience whatsoever: the definition contained in a law has no more value than the definition contained in a scientific treatise.

Eliminating this fallacious argument, the question remains: Is the Vatican City, as created by the Treaty of 1929, a veritable State? This is a hard question; and it has aroused the most contradictory opinions. For just as it could be maintained by some that the temporal power was not suppressed by the events of 1870, and by others that it was then suppressed for ever, so it can be maintained that it was suppressed in 1870 and re-established in 1929. Everything depends, so to speak, on the doctrinal yardstick by which one

measures how much has been constructed by the Lateran Accords.

We shall have an opportunity in the following chapters to speak more at length about the relation between the juridical regime established by the Law of Guarantees and the juridical regime created by the Lateran Accords. For the present, to understand better the various opinions, including our own, let us see in what consists that political territorial unity which for some writers is the proof and the object of the restored temporal power of the Pope, while for others it is only the plot of ground in which his power has been entombed forever: the State of the Vatican City (or S. C. V., as it is abbreviated).

The S. C. V. extends over forty-four hectares, about one hundred acres, and has nearly 600 inhabitants. It is composed of the Vatican palaces and the neighboring buildings, including the Basilica and the Piazza of St. Peter's, which must always remain open to the public and which are policed by the Italian Government. Since it was impossible to include in the territory of the S. C. V. all the offices of the Holy See (Congregations, Tribunals, etc.), a special regime of extra-territoriality was established for the palaces, in the city of Rome, where those offices are situated. Full legislative power, executive and judiciary, appertains to the Pontiff, with the faculty of delegating its exercise — as in fact it has been delegated to the Governor of the City—to the Sacred Roman Rota and to the Apostolic Segnatura. These principles were all decreed by a fundamental law of the S. C. V. promulgated the same day the Accords went

into effect, and later followed by a law on the sources of the law, one on citizenship and residence, one on administrative organization, one on economic organization, and one on the public police.¹ There is about to be published a code of civil procedure and other legislative measures that will integrate the principal source of the S.-C. V.'s law, the *Codex Juris Canonici*, and substitute the Italian laws that have been provisorily kept in force over the territory.

Our intention, however, is to designate in the briefest manner possible the constitutional physiognomy of the S. C. V.; and therefore it will perhaps be better, instead of enlarging on the characteristics that make it resemble the normal type of State, to indicate the characteristics that incontestably make it dissimilar, and that have caused such terms to be applied to the S. C. V. as "the City of Paradox," "Paradox of a State," "the Holy See's *pied-à-terre* in the territory in which the States move," and still others more or less picturesque and disrespectful.

As to the territory, the most significant geographical anomaly consists in the fact that the territory constitutes an *enclave*, since it is entirely enclosed in the territory of another State; while from the juridical point of view, the fact is significant that such territory in its entirety is the exclusive property of the Holy See — that is, *it is entirely*

¹The Text may be found in: *Acta Apostolicae Sedis*, June 8, 1929. A commentary is in CAMMEO, *Ordinamento giuridico dello Stato della Città del Vaticano*, Firenze 1932. .

public property. Private property does not exist in the S. C. V.

That the population is exclusively composed of citizen-functionaries is a significant anomaly. Citizenship in the S. C. V. is not acquired either by residence or birth; only by law do those people in whom are invested a determined ecclesiastic dignity or who occupy certain offices acquire citizenship — as do also their families, though in a more limited way. With dismissal from office, citizenship is automatically lost. It is, in short, a State in which all the citizens are functionaries. According to the legislation of various nations the condition of citizenship has always been able to depend either on the fact of having been born of citizens (*jure sanguinis*), or on the fact of having been born in the territory of a given State (*jure soli*); but in both cases citizenship has constituted a right of the citizen belonging to him from birth, inherited by him, and in some instances inseparable from him regardless of his own will. The Vatican City does not admit the existence of such citizenship: in it, citizenship is always acquired by virtue of a concession, which may be revoked at any time.

These may be fine distinctions, but they are nevertheless true. For, in fact, when in a much more general way we speak of people, as one of the factors of State, it is always to a spontaneous and natural formation that we refer; and for this very reason, the true cell of the collective organism is not the individual but the family. Briefly, "the people" as an element of the State is normally conceived as a social group that forms spontaneously and naturally, and thus grows and develops by

virtue of itself. Therefore, it is impossible to conceive a people . . . without women!

Passing to the third element of the State — sovereign power — we encounter equally grave anomalies, though the difficulties here are of an opposite kind. As to the people we found a defect; as to the Sovereign we find an excess. This is a Sovereign (the Holy See personified in the Sovereign Pontiff) who alone is so important that he annuls everything else. He is not a part; he is the whole. In the normal life of States, sovereign power appears as an effect of the organization of the people; the immediate title to the power lies in the Constitution. The existence of the State, it may be by only a logical act, precedes that of the Sovereign. In the case of the Vatican City, on the contrary, just the opposite condition exists. The Sovereign does not follow the constitution of the State, nor does he accompany it; he precedes it. The authority of the Sovereign, the means by which it is determined, the very reason for its existence, are all quite independent of the people and the territory. From this come other more serious anomalies, relative specifically to the nature of the Pope's sovereignty. This is a subject to which we shall return in the course of a brief summary to be made of the various doctrinal controversies that the Lateran Accords have aroused, similar to the summary made of the controversies caused about sixty years ago by the Law of Guarantees.

Discussion has been essentially upon these points: What is the juridical nature of the Treaty and what is its relation to the Concordat? What is the position of the Holy See after the Lateran

Accords, what is the nature of the Vatican City and what is the relation that exists between these two entities? Of the various arguments sustained, some are representative of the prejudices and the doctrinal position taken by writers in the controversies rife during the separatist regime; others — and these are in the majority — represent original attempts to settle essentially new problems.

The difficulty of reentering the figure of the Holy See — one of the contracting parties to the Lateran Accords — and the Catholic Church in the traditional schemes of constitutional and international law has caused a serious disagreement between various commentators on the juridical nature of these Accords, in spite of the denomination of Treaty and Concordat given the two principal acts composing the Accords.

One of the first disparities of opinion has been between those who hold that the Pontifical State was not abolished by the events of 1870, and those (the majority) who hold the contrary.

Since for the first group — among whom we recall De Olivart, Le Fur, and D'Avack — the quality of Sovereign of a State was never withdrawn from the Pope, the Lateran Accords were drawn up between two heads of States, and consequently between two persons of international law, both preexisting and perfect. For the second group, on the contrary, the question is presented in much more complex terms: Did or did not the Holy See have international juridical personality before the Accords? If it did not, how can the act agreed upon between two parties, only one of which is a person of international law, be called

an international treaty? And even if the other party does have such personality, and that personality does not have the characteristics of governmental personality, what kind of pact may that be concluded between two entities of heterogeneous nature — that is, between a State (Italy) and a super-statal, or inter-statal entity of a spiritual and transcendent character such as the Holy See or the Universal Church?

The difficulty has been faced in various ways which, because of their purely technical character, cannot have great interest for the general reader. Anyone who wishes to study this further may consult the work of Falco, whom we cite many times,¹ and who gives a clear, orderly, complete exposition of these various theories. Falco, after an exposition of these theories, expresses his own opinion, which in comparison to the others it must be said is far more realistic. Discarding all concepts about the assumed necessity that treaties be stipulated only by States, he admits that the Lateran Treaty has been stipulated by Italy with the Person of the Pontiff in his quality of Supreme Head of the Catholic Church, and grants at the same time the legitimacy of his claim, founded on the canonical order, to have also a territorial sovereignty as a means of exercising his spiritual sovereignty. In other words, according to Falco, Italy's recognizing the binding power of the canon law in determining the juridical figure of the Church and the nature of its objectives, in spite of methods of opportunism to obtain them, put

¹FALCO, p. 27.

at the disposition of the Church, with the Lateran Treaty, the material elements necessary for the existence of the new State (arising precisely in the moment of the exchange of ratifications), because the Pope had already acquired such elements for himself as Supreme Head of the Church. The principal purpose of the Treaty is therefore to guarantee to the Pope the exercise of his high mission in the world, and would always have been an international treaty even if it had made no disposition regarding the S. C. V., the creation of which is only the secondary purpose.

The author of this book believing also that these questions should be considered and settled in a realistic sense, follows Falco and even goes beyond him. It is our personal opinion that the various writers who have occupied themselves with these subjects let themselves be dominated by their technical equipment and that "the man in the street" could perhaps devise for himself a simpler concept, though no less just, about all these difficult technical questions. It would be enough for the layman to consider that since in any case an international quality has to be recognized in the Holy See, it cannot be foreseen what prejudiced and absolute objection can be made to the possibility that the Holy See is capable of concluding an international accord with another international entity (the Italian Government). Certainly between these two entities, though both are of international character, there is no homogeneity; one (the Italian Government) is regular and normal, the other (the Holy See) is exceptional and anormal. But we do not believe that because a

juridical accord can be established between two entities, they are consequently homogeneous.

As to knowing how and in what moment the new State (the Vatican City) arose, we believe that the true difficulty always consists in deciding whether a true State is under consideration. This difficulty surmounted and, hence, the hypothesis being admitted that the S. C. V. is to be considered an ordinary State, we believe every question is, juridically, useless that indirectly concerns the legitimation of the origins of that State (that is, if and how these origins conform to the Law) or of any other State in general. We belong to a school that denies the existence of a problem about the legitimation of the State. The State, for us, exists as a natural, historical and political fact, and the right for its being is extraneous. Thus we also deny the importance of the question for the resolution of which research is made to see if and what tie of dependence or of juridical correlation exists between a creative State and a created State. In our case, the Vatican City could claim to be "created" either by will of the Italian State or by will of the Holy See, and the consequences of either of the two hypotheses could be argued at length. Here too, we think, everything depends on knowing whether or not the Vatican City is to be considered a true State; where the affirmative is maintained, no tie of dependence could be recognized in that creative act. A State, we believe, is born of and exists by natural, spontaneous forces; this excludes the possibility of a creative act. A State cannot be created anymore than a man can be created. On the contrary, if we admit, as we can and

must, that the S. C. V. owes its existence to the will of other entities and that it exists as long as this will endures, this signifies that a true State is not under consideration. The question, on which everything depends, continues to be this.

The most agitated question has been: Granted the juridical nature of the S. C. V., can the S. C. V. be entered into the public law scheme of the notion of the States? Following the traditional doctrine that a State cannot be so called when it lacks one of the three constitutive elements — territory, population, sovereignty — many writers, basing their argument on the serious anomalies that are met on these three points (the principal of which we have discussed above), have denied that the character of a State can, juridically, be attributed to the Vatican City.

Professor Giacometti¹ and Professor Rousseau,² among others, have fixed on the insufficiency of territory. They maintain that the territory of a State, in order legally to be considered as such, must be enough to provide for the needs of the economic and juridical life of the State itself. This is not the case with the S. C. V. whose territory, according to these writers, besides being insufficient as to quantity, never ceased to be Italian territory, although during a very definite period it was considered an extra-territoriality. This

¹GIACOMETTI, *Zur Lösung der Römischen Frage*, in: *Zeitschrift für die Gesamte Staatswissenschaft*, XC, 1 (1931) p. 8.

²ROUSSEAU, *Etat de la Cité du Vatican*, in: *Revue générale du droit international public*, 1930, p. 145.

opinion is, substantially, also that of Professor Liermann.¹

As to the population, Professor Giacometti has pointed out that the requirement of "population" is not met by a body of individuals who possess citizenship solely for reasons of office, without having the possibility of transmitting their citizenship *jure sanguinis* to their descendents; these citizens are only organs of the Holy See, a means and not an end of the State's activity.

As to the sovereignty, this dilemma has been shown by Professor Bracci:² It being premised that sovereignty must be something absolute, original, unlimitable, and it being premised that the Holy See and the S. C. V. have the same territorial basis, it follows that these entities cannot both be sovereigns. Wherefore, if the S. C. V. is sovereign, the Holy See is an entity not sovereign but subject to the S. C. V.; and if the Holy See is sovereign, the S. C. V. is not. Since, however, the Holy See is a person of international law, only the second hypothesis is admissible and it is necessarily concluded that Sovereignty does not appertain to the S. C. V., in spite of its legislative, administrative and judiciary power, except as a reflection, almost a derivation, of the Sovereignty of the Holy See.

Other writers, moved by the anomalous constitutional points, have maintained that the S. C. V.

¹LIERMANN, *Staat und Kirche in den Lateranverträgen*, in: *Archiv des öffentlichen Rechts*, XVIII (1930), p. 380.

²BRACCI, *Italia, S. Sede e Città del Vaticano*, Padova 1931, p. 69.

is an entity clearly antithetical to other statal entities, that it is an extra-statal, a neutralized, zone. This is the theory of Professor Jarrige¹ and Professor Rivet.² According to this theory, the S. C. V. is a zone of land free and immune from the territorial sovereignty of any State, comparable to certain territories and federal districts that have been constituted in Federal Governments, adjourning the various Confederate States, to form the seat of government in the Confederation. The most apt example is furnished by the United States, in the District of Columbia, which does not exist as do the other States for its inhabitants, but for the purpose and interests of the whole Confederation. According to this juridical construction, the S. C. V. would be in a certain sense an entity suspended in space, legally guaranteed in the exercise of its functions, but incapable of filling this space with its own attributes, and with an activity qualitatively analogous to the governmental activity that was granted as a kind of juridical fiction for the purpose of admitting the S. C. V. among the States.

Although this opinion is represented by a large group of writers, another perhaps more numerous group maintains the contrary: that the qualification of a State must be recognized in the Vatican City. The writers of this group do not deny the constitutional anomalies just cited, but hold that

¹JARRIGE, *La condition internationale du Saint-Siège avant et après les Accords du Latran*, Paris 1930, p. 234.

²RIVET, *La Question romaine et le Traité in Latran*, Paris 1931, p. 191.

they are not sufficient to justify the absolute non-recognition of the quality of a State. Instead, they consider the Vatican City a State having a physiognomy of its own, not corresponding to the typical physiognomy of modern States, but nevertheless capable of being termed a State.

To defend this assumption these writers work on the definition given by the Treaty, according to which it is established that the S. C. V. is to be recognized as a true State — an argument that we have shown before to be fallacious. They then make this double premise: first, Sovereignty understood as a right to command and have orders followed out, is the essential constitutive element of a State; second, there can very well be a kind of State in which Sovereignty does not appertain to the State itself (considered as an abstract entity which corresponds to the reality of a people fixed in a territory and juridically organized), but appertains to a physical person, to a man who holds power and has the force to exercise it. This premised, and having also constated that such power exists in and is actually exercised by the Sovereign Pontiff, Head of the State of the Vatican City, the followers of this order of ideas inscribe the S. C. V. in the category of the so-called Patrimonial States — signifying a form of absolute State, of which the last most obvious example in the world of European politics would be the Pontifical State, suppressed in 1870. The S. C. V. would therefore have the same juridical characteristics of its predecessor; and as no one ever doubted the quality of a State in the Pontifical State, so it would not be possible to doubt such quality in the S. C.-

V. This theory has been sustained by Professor Donati,¹ Professor Ruffini,² Professor Falco,³ and others. We shall speak more of it in another part of this book.

A last doctrinal disagreement about which we have already briefly expressed our opinion is that concerning the nature of the relation between the Holy See and the S. C. V. According to the prevailing theory, sustained by Professor Anzilotti,⁴ Professor Diena,⁵ Professor Morelli,⁶ Professor Del Giudice,⁷ and Professor Falco,⁸ the S. C. V. and the Holy See are two entities distinct from each other, both subject to international law. The first only, however, being a State could possess Sovereignty, and not the second, the Holy See, which is a spiritual institution. Thus between the

¹DONATI, *La Città del Vaticano nell'ordinamento generale dello Stato*, Padova 1931.

²RUFFINI, *Lo Stato della Città del Vaticano*, in: Atti R. Accademia delle Scienze di Torino, LXVI (1931), p. 569.

³FALCO, p. 41.

⁴ANZILOTTI, *La condizione giuridica internazionale della S. Sede in seguito agli Accordi del Laterano*, in: Rivista del diritto internazionale, 1929, p. 168.

⁵DIENA, *La Santa Sede e il diritto internazionale dopo gli Accordi lateranensi dell'11 febbraio 1929*, in: Rivista di diritto internazionale, 1929, p. 180.

⁶MORELLI, *Il Trattato fra l'Italia e la Santa Sede*, in: Rivista di diritto internazionale, 1929, p. 198. p. 223.

⁷DEL GIUDICE, *Corso di diritto ecclesiastico*, Milano 1930.

⁸FALCO, p. 41.

two entities there would be a relation of coordination; this can be seen in various ways, all of which are due to the fact that the Vatican City and the Holy See are both under one Sovereignty — the Pontiff. According to this group of writers, there is thus some analogy to one of those unions of States determined by the unity of the Sovereign—unions sometimes purely personal (as Great Britain and Hanover between 1714 and 1837), other times unions with real bonds by virtue of an accord that forms part of the constitution of two States (as England and Scotland after the union of 1707).

According to an opposite opinion, maintained by Professor Jemolo,¹ Professor Arangio-Ruiz² and Professor Balladore Pallieri,³ the Holy See and the Vatican City are not two distinct personalities, because joined by the unity of the Sovereignty, but have a sole personality; wherefore the new State came into being superimposing itself on a preexistent entity active in the international sphere: the Holy See. Therefore the State of the Vatican City is not a State endowed with a personality of its own (subjective State), but is an object of dominion over which is exercised the sovereignty of an international person: the Holy See

¹JEMOLO, *Carattere dello Stato della Città del Vaticano*, in: *Rivista di diritto internazionale*, 1929, p. 194.

²ARANGIO RUIZ, *La Città del Vaticano*, in: *Rivista di diritto pubblico*, 1929, p. 615.

³BALLADORE PALLIERI, *Il rapporto fra la Chiesa cattolica e lo Stato vaticano secondo il diritto ecclesiastico e il diritto internazionale*, in: *Rivista internazionale per le scienze sociali*, XXXIII (1930), 2.

—a person that existed before it, and that could survive even though the other did not exist.

It is hoped that the purpose of this introduction has been realized — to give the reader a summary of all the questions bound up with the relations between the State and the Church in Italy between 1870 and 1929. It may well be said that this period was marked out by destiny. Though of barely more than a half century in duration, so many revolutions and world upheavels were witnessed during this time that a whole era seemed to have passed. The history of these relations without doubt has been one of the principal factors of that great period, for there have been struggling and agitating the dominant forces of all times: the Church and the State, the religious and the lay idea, the rights of tradition and the rights of evolution. These are forces representative of ideas universal in space, eternal in time.

The author of this book has been a principal actor in the characteristic and decisive moment of the events of this period. The summary set forth in this introduction will help the reader to place the personal memories and observations of the Author in their just relation to the broader outlines of history.

I

PIUS X

The grandeur of a monument appears to greater advantage as the distance between it and the observer is increased; and in the same way, the true grandeur of a man or historical event stands forth more sharply with the passing of time. Time gives perspective to history. How much fame, quickly won, is as quickly covered with oblivion!

Even while living the gentle figure of Pope Sar-
to impressed one with its nobility, although because of his modesty and simplicity it was customary to refer to him always as a "country curate." But since his death, he has steadily grown as a symbol of Spirit and Action. Popular sentiment has for a long time regarded his memory with the veneration accorded a Saint; even the more critical have come to see in him one of the greatest popes that the Church has had during its entire existence of almost two thousand years. Renè Bazin's biographical study "Pie X"¹ gives one a curious sensation. It seems to be the history of a man who lived long ago; and so persistent is this impression that even I, who had personal relations with him for many years, must continually force myself to recall that he lived in our own times.

¹Paris, Flammarion, 1928.

The modern civilization of North America has developed the "self-made man," who from nothing has won command of coal and oil deposits or of railroads, and possesses more power than ever kings had who were crowned in Cathedrals. A superficial observer might draw a comparison between the career of the "self made man" and the extraordinary rise of the son of a servant in the Municipality of Riese. For, that plebian youth, who walked seven kilometers in his bare feet over the road to the Castelfranco school carrying his shoes over his shoulders so as not to wear them out, came to embrace the Tiara with the triple crown — the symbol of the oldest and most illustrious sovereignty.

Beneath this apparent analogy, however, there lies a far more basic contrast. The "self made man" of North America still continues his struggle for life. He struggles desperately with the severest trials of material life for triumph over that very same material life. It is wolf against wolf. The will that drives him on to better himself, ends in itself. As a result, leading a bitter, harsh existence, not a ray of beauty shines within him, and he does not smile with the joy of the spirit; rather, he drives away all suggestion of this as a weight or hindrance.

The seminarian of Castelfranco — the almost impoverished priest who was for eight years a curate to a vicar in an extremely poor parish, and who himself became a humble country curate, and so remained for another eight years — did not strive to gain authority or power. On the contrary, he sold horses and distributed the money to the

poor. As a cardinal, he prayed and wept despairingly in the Capella Paolina that the grace be given him that he be not elected Pope; and when elected and asked, according to the ritual, if he accepted, he answered: "May this chalice be taken from me! Yet, may the Lord's will be done!"

These words, in the spirit of faith with which they were permeated, are of the same high significance as those he often spoke when about to face the gravest difficulties and to assume the most formidable responsibilities: "Let me reflect," he would say; then pointing to the cross: "There is the One who will decide".

His was purely an apostolic spirit; and without detracting from the absolute value of his intellect and doctrine — both superior to what was generally attributed to the "Country Curate" — it is certain that his predominating quality, in which he trusted for guidance and from which he drew the inspiration for his most solemn decisions, was great understanding and ready intuition inspired by faith. In this he more nearly resembled the Apostles than theologians or diplomats.

Since it is my intention only to make the modest contribution of a few personal recollections, time and space will not permit even the briefest outlines of the pontifical work accomplished by Pius X. The simple statement of some of his acts and decisions is, however, more than sufficient to show the incomparable value of his career.

Nothing is greater than the attitude he took in the struggle with the French Government, especially with regard to the law of December 11, 1905, that denounced the Concordat and institut-

ed the famous cultural associations. By these associations, the government of cultural matters, including the possession of the churches, passed to the laity, under the supervision of the prefect. In this way, the hierarchy that is an essential in the Catholic Church was subverted. To refuse, on preconceived principles, to accept that ruling, signified the loss to French Catholicism of all its patrimony, not only profane, but sacred as well. There was, therefore, great uncertainty. The majority of the French bishops wished to discuss this so as to reach an agreement that, ceding in substance, would preserve a certain form.

Pius X did not hesitate. He refused.

I learned at that time the striking statement he had made. Someone asked him how the Archbishop of Paris could have exercised his ministry without a home, without revenue, and without a church. He answered that in any event he would have been able to call to the office a Franciscan, who was obliged by his vows to live by charity and in absolute poverty.

This was a magnificent proof of the apostolic spirit, and was, at the same time, very useful to the political interests of the Papacy. Spontaneous intuition, even from the so-called practical point of view, is worth far more than subtle calculation and shrewd intellectualism.

There are few who are not acquainted with the great struggles carried on through the centuries between the Holy See and the French Government to assure religious supremacy with the right of nomination, or rather, jurisdiction, over bishops and priests. Apart from the personal religious

sentiments of government leaders, it is certain that under this aspect of gaining a political end there were no essential differences between the Monarchy, the Empire and the Republic. Louis XIV was on a par with Napoleon and M. Combes. Now, for the first time in centuries, the Papacy could completely reacquire its supremacy over the Gallican clergy. And this was under Pius X. It is true that the cost of the battle was the loss of hundreds of thousands; but the result was well worth the sacrifice.

Let us review other events, historically no less important.

One of these was without doubt the codification of the *Corpus iuris* that gave to Pius X, in the history of Canon Law, the place that Justinian has in Roman Law. Another was that resolute, energetic, intransigent struggle for the repression of Modernism. And though it may displease the "Intellectuals," they should, nevertheless, understand that the work of a Pope cannot be judged by the criterions of Rationalism that, down through the centuries, has repeatedly ended in heresy. It would be just as logical to blame a Pope for not approving such tendencies of thought as it would be to suppose that a king would strive for the establishment of a republic.

Rapid as this simple review may be of the most characteristic events in Pope Sarto's career, we cannot omit speaking of that phase that reveals his exquisite feeling for art, his cultivation and love of external form — let us even say, of Beauty. This has nothing in common with aestheticism, that converts the means into the end, and points

the way to degeneracy. We have little admiration for those Popes who decreed public celebrations at the recovery of an Apollo or Venus, or who consented to the marriage of a monk to a nun solely because one bore the aristocratic name of Filippo Lippi and the other was the model for an artist's masterpiece. But in the harmonious fusion of all manifestations of the spirit, this Religion is not separate from Art. Hence, those acts of genius actually animate the figure of the Pope, a son of the people, who had the taste and feeling of an artist, and who combined his mysticism with the realization of a beautiful dream of art.

As soon as he was nominated Bishop at Mantua, he gave a great number of orders at the first synod of the diocese he presided over, and among them there was this: The prohibition to ecclesiastics to sell objects of art, pictures, vases or sculpture, under penalty of suspension *a divinis*. That was the beginning of his work for the restoration of the Gregorian chant that he continued with untiring zeal as a Patriarch and finally as Pope, culminating it in the celebrated *Motuproprio* of sacred music, signed on Saint Cecilia's day, November 22, 1903.

Having thus indicated the distinctive characteristics of that great figure, I may be permitted an account of my own recollections. I was minister of Grace and Justice (from which ministry, at that time in Italy, depended the political control of relations between the State and the Church) between 1907 and 1910, a period of three years which, considering the average life of parliamentary governments, represents a kind of "record

run.” With regard to the questions concerning my ministry, I had a definite objective that was perhaps not superior to the customary one, but different in this sense: I wished to have a definite political - ecclesiastic policy to which, of course, would have to contribute the imposing figure of the Pontiff who at that time governed the Church. The establishment of our relations began in a singular way.

Relations between the Ministry of Justice and the Holy See — then necessarily *de facto*, and not legal — were, as I had found, traditionally maintained through a special class composed generally of Roman lawyers well received by the Curia, who made a kind of profession of this capacity. I must explain that I do not speak of these derogatorily, but only wish to show that the personal influence of the representatives of the two governments came in a certain way to be diminished, I might even say, stylized, by the official quality of these intermediaries. Through a mutual, readily made agreement between Pius X and myself, these intermediaries were set aside. A young prelate, my fellow countryman and personal friend, who at the same time enjoyed the good graces of the Holy Father, became the *trait d'union* between us. He was intelligent and devoted, yet perfectly disinterested and, in a way, impersonal. His existence was ignored by everyone then, as now. On orders issued by both sides, this prelate had the right to immediate entrance. He received and bore the necessary communications as rapidly, surely and directly as they might have been by telephone.

Mention might be made here of the “directives”

of the great Pope on the subject of relations with the Italian State. About this extremely delicate subject, the policy of the Holy See from 1870 to the present had oscillated, even during the office of the same Pope, between two contrary tendencies without ever abandoning itself entirely to either of them, since at the base of each was found an insurmountable obstacle.

One tendency was, in a manner of speaking, negative and combative; the other, positive and conciliatory. From one side pressed forward the exigencies jealously wishing to preserve the international, cosmopolitan character of the Catholic Church complicated, in Italy especially, by the claims of traditional restitutions. On the other side was the reality of life together — that is, the territorial coexistence of the two Romes, Papal and Italian, in a country as Catholic as is Italy, but which has great traditions in which the Papacy in every moment of its history has interested itself, and left indelible traces in its every moment of existence.

Guided by his unfailing intuition, Pius X here, also, found the perfectly right way. For whatever concerned the international quality of the office and the theocratic character of the sovereignty derived from Christ, he certainly belonged to the category of the strictest intransigent Popes. He was well aware, for example, of the dangers of reciprocal compromises that would have been incurred in Italy with the formation of an organized political party naturally, or by derivation, confessional and Catholic. To such a proposal he was always strongly opposed; while under his imme-

diate successor, Benedict XV, the actualization of this plan had unhappy and harmful effects, as only experience could prove.

From my point of view, although for quite opposite reasons, and because of the liberal doctrine I professed, even I did not believe useful either to the Church or to the State a radical change of the principles by which was inspired the great tradition of Italy's political policy. Certainly these principles can and should intelligently evolve of themselves, and to that purpose I have always given my warmest cooperation, even when anticlericalism was in vogue. Moreover, the attempt to hasten history artificially is dangerous and, in every instance, in vain.

Such a respective state of mind rendered quite clear and simple our relations in the field of politics, in the constitutional and institutional sense of the word. We ignored each other; on one side as well as on the other, we had nothing to ask and nothing to give. The simoniacal practice (I do not intend this in the religious, but simply in the political sense) of an exchange of privileges or favors *sub specie utilitatis* could never develop, because there was lacking, if I may be allowed the expression, the primary material for it.

On the contrary, when we pass from the political and diplomatic field to the sphere of governmental action determined by the respective needs and duties of real life — on one side the supreme Head of the religion belonging to the Italian race, and on the other the Minister of a Catholic State who had to recognize in religion a powerful factor of collective civilization — then I can proudly say

that there was perfect collaboration, complete harmony.

I will add that, when diverted from his superior and absolute responsibilities as Supreme High Priest of a Universal Church, the Holy Father was very happy to give way to the promptings of his heart so exquisitely, so perfectly in tune with the great ideals of the noblest type of humanity. Pope Sarto had a profound, intense regard for his native country that no one else ever had in similar conditions. And the celebration in which he participated on August 4, 1901 seemed a divine predestination; for on that day, as Patriarch of Venice, seated on a white mule, he ascended the 1800 meters of Mount Grappa to bless and consecrate the statue of the Madonna, before which, sixteen years later, the enemy invasion was thrown back.

It is fitting at this point to make a few personal notes that will be useful in arriving at a full understanding of that truly incomparable spirit; and in doing so, I wish to exercise the discretion and reserve that, with such delicate material as this, I have always thought should take precedence over the laws of history itself.

Among the vast number of ecclesiastic reforms he effected, there was one which required my approval as minister — the reduction of the dioceses. Owing to the special character of its history, Italy has always had an extraordinary number of dioceses that, in comparison with other Catholic nations, may be termed absolutely excessive. Due to this condition much damage has been done not only to the economic order (for the expense necessary to the proper maintenance of the dioceses and

related institutions, such as chapter houses, seminaries, etc.), but also to the spiritual government itself, since in the choice of men best adapted, the quantity has always to be detrimental to the quality.

Necessary measures had to be taken to make a reduction; but this end could not be gained without exceptional courage and firmness.

As the proverb runs, The whole world is a village. And the Church, in fact, as concerns its domination over men, cannot free itself from the laws of collective psychology that are active in politics in general. Everyone knows the difficulties, often insurmountable, that arise when it is suggested that a university, a prefecture or an armory be dispensed with. A similar, if not even more persistent, resistance is met with in the population at the suppression of a bishopric, both because of the greater diffusion of religious sentiment, and the ancient traditions connected with institutions sometimes more than a thousand years old.

But Pius X, with all his infinite goodness and tenderness, was able to draw from his sense of duty a force that no earthly trial could defeat. He was careful to mitigate the grief of the people with timely expedients. He chose, for example, to carry out the reduction of a diocese not by its discontinuance, but by its union with another, under the direction of one bishop who resided alternately in the two places. The reform, nevertheless, was necessary, and he considered it so without allowing obstacles to hinder him.

As I say, the permission of the civil government was required, both because of the effect the reduc-

tion or combining of dioceses has on the temporal revenue, and because of the patronage rights that often are disputed with the State in virtue of ancient titles. The Holy Father asked, accordingly, what my intentions were in the matter, and I hastened to express my full approval, adding that he could count on my warmest cooperation.

I faithfully kept this pledge, and not without credit, since as parliamentary minister I had to face all the complainants who used their representatives to make themselves heard. I recall, as a matter of fact, that strenuous protests against the suppression of a diocese came to me even from a deputy who was active in the most extreme parties and who openly professed anti-clericalism and atheism.

The strength of this type of accord between two powers lay in the Holy Father's unfailing sense of justice and proportion that induced him of his own volition to take into account every vital factor, even if it depended on a point of view different from his own. This valuable quality made him always calm and indulgent, and kept him from that one-sided judgment that often lapses into obstinacy and pride.

I remember a good example of precisely this quality in a case that occurred during the first few months of my term, and that helped to establish the mutual good faith which always continued unaltered. A bishop's post became vacant in an important city in the province of Venice. His Holiness informed me of his intention to nominate a certain Monsignor P. to the post, and asked if I would have difficulty granting the *exequatur* —

the royal decree by which the government grants permission to a bishop to exercise the temporal functions included in his office. With his usual frankness, the Holy Father clearly showed how important to him was this nomination.

Upon inquiry, it was learned that the Monsignor had a very active, combative personality, so that while he was greatly loved in certain circles, in others he was as much feared and opposed. However, as no exceptions could be taken to a character because of political prejudices, I thought it would not be right in that case to set any obstacle against the wishes of the Sovereign Pontiff. Therefore, though aware of a politically opposing character, I advised that the *exequatur* would be granted.

The spiritual nomination took place; and in spite of the opposition that had arisen against me, I was expediting the procedure, and had the decree almost ready, when the King's Chief Procurator telegraphed me that Monsignor P. had been involved in a penal action, in connection with manslaughter. The prelate was the rector of a seminary. One of the boys had gone in the mill belonging to the seminary, had been caught in the machinery, and killed. It was obviously an accident, and the charge made against the rector only attested to the violence of sectarian passions.

Nevertheless, the situation placed me in an extremely difficult position. As minister of Grace, I was bound to give the *exequatur*; but as minister of Justice, I could not allow that mark of Sovereign approval to be given to an accused person awaiting court trial. I sent the usual intermediary

and asked him to inform the Holy Father of the affair. I added that true to the word I had given, I would not decide of myself whether or not this new turn of events freed me from my obligation; but I begged the Holy Father to examine the fact and consider whether, in view of the dignity attached to a bishopric, it would not be better to defer admission to the sacred office as long as there was the possibility — though unlikely — that a Bishop would sit on the King's bench for a criminal offense.

The Holy Father answered that he thanked me deeply for the deference I had shown; that he found my doubts perfectly justified; that hence, he too believed it right to await the result of the penal action; and that he only wished this could be hastened.

Accordingly, after a few weeks, a decision was given acquitting the Monsignor of every accusation in the court; and the *exequatur* was granted.

The most curious thing in this story, was the violent protests several deputies of the region made against me. These deputies, among whom was a Jew, charged that with making this precautionary step, I was yielding to pressure from the Freemasons. I could not tell them that instead, I was perfectly in accord with His Holiness and that, therefore, they proved themselves to be more papist than the Pope.

This mutual loyalty was excellently shown in another case. The violent earthquake in Messina in 1908 left several thousand orphaned children, whose plight aroused widespread sympathy. In the disorder immediately following the earthquake

a great many people came to the scene of the disaster; and a number of them thought they were entirely authorized to appoint themselves guardians of any poor child they found whose parents had been killed.

Although such action was generally prompted by generous sentiments, it was obvious that the Government could not permit all these unfortunate children to be considered legally as a kind of *res nullius* that belonged to the first claimant. I therefore quickly had a Protection Society organized (called *Regina Elena*) through which the Government took entire tutelary charge of the orphans, with all the supervision involved, including also that of assigning them to private families. In the meantime, unauthorized adoption of the orphans was strictly prohibited. Even a royal princess who had asked for eight to shelter in her institution was respectfully requested to wait until permission was given through legalized guardian societies with the usual forms and guarantees.

This was the situation when a ship from Spain arrived in Messina one day with the report that a committee had been formed to assume the maintenance of a hundred orphaned boys and a hundred orphaned girls, and that the ship was to take them aboard without delay and convey them to Spain. It was explained that this was being done with the Pope's permission, and in fact at his wish. The prefect, in accordance with the orders he had received, refused to let them take the children, and then communicated with me. I hastened to advise His Holiness that I wished to have directly from him his opinion on the matter; I expressed in ad-

vance the respect I had for his opinion, but I begged the Holy Father to consider the reasons that had prompted me to establish those rules in regard to the children and my desire to enforce them.

In his reply, he thanked me and said that he too believed it right that the orphans' condition be under the strictest care of the Government and that as the rules were in effect, they should apply to everyone.

Supported by the Pope's statement, I enforced the prohibition against the Italo-Spanish committee; and I cannot adequately describe the storm of criticism that broke forth. Foreign diplomats and members of the Italian parliament first exerted what influence they could, then protested vigorously, and even threateningly. In this case, too, the strange thing was that all the complainants spoke in the name of the Pontiff and declared that he was deeply offended by my attitude.

One evening, the under-secretary of the Minister of the Interior came to the Palazzo Firenze and told me in great excitement that he had learned from his informers of a serious document ready in the Vatican's printing room that denounced to the world the harshness of the Italian Government in opposing the benevolent act of the Sovereign Pontiff. — And I knew I was perfectly in accord with the Pope!

It is hardly necessary to say that the work accomplished by him for the orphans of the earthquake was of untold value and reflected his great humaneness. It might be added that the Government supported him in every way.

Among the numerous similar events which I re-

call with the deepest respect, there is one which is especially significant; for while it reveals the exquisitely evangelical spirit which animated Pius X, and demonstrates the profundity and skill of his genius, making the spirit correspond to the act, it also shows the energy and inflexible resolution which enabled the "Country Curate" to arrive at the ends he had chosen.

In a region in Central Italy, there was a bishopric that, by some historical conditions peculiar to itself, had succeeded in evading the Italian laws of 1864 turning ecclesiastic property over to the State. This bishopric had preserved intact its colossal patrimony. The bishop was without doubt the richest in Italy and one of the richest in Europe. On the other hand, the bishopric was situated in a small, poor town that was practically a village. The bishop was certainly not outstanding for his charitable spirit; moreover, he was an ardent nepotist and diverted the enormous income of the bishopric to the enrichment of his own relatives. In short, there was an almost medieval contrast between this exceptionally rich bishopric and the extremely poor diocese.

It is easy to imagine the wave of disapproval that arose against such a state of affairs and carried beyond the province until it reached the ministry. My situation was quite difficult, as I did not have the means of positive intervention. I chose to refer myself directly to the Holy Father, to whom I made known the unfortunate situation of the diocese and the public scandal accompanying it, to the detriment of the Faith.

To say the truth, all I hoped for was that an

exhortation from high authority would incite the bishop to a more widespread practice of charity and beneficence. But Pius X, with his evangelical sentiments, made quite different resolutions. He answered that he was saddened by the situation and would do what he could to end it. He asked, however, that I undertake this obligation — if a successor should be chosen, it should be done according to the desires of His Holiness without exception or reservation on my part.

To understand this request, it must be explained that the bishopric was under what is called Royal Patronage, signifying that by an old historic law the nomination depended on the King. Now, I knew very well that there was a tradition by which the title of that bishopric appertained to the region itself; I was also well informed of the ambitions directed toward winning the rich revenue, and aware that each of those ambitions was supported by considerable forces, even from the political laity.

But it was well worth the trouble defying these factors for such an excellent purpose, and I undertook the obligation as requested. Not without some doubts, I must say, I awaited the proof of my suppositions, for I considered the influence that could be brought to bear by the possessor of such great patrimony to prevent its being lost.

On the contrary, Pius X had, as always, a gentle but inflexible manner. The bishop was called to Rome, and there at length signed his dismissal which took the great income from him. That done, the Holy Father advised me of the name of the one chosen so that I could propose his nomina-

tion to the King. It was the name of — a Franciscan friar!

The significance and beauty of the Pontiff's act cannot be conveyed in words. He was not satisfied that the uncharitable priest had been punished for his sin; it was further necessary to give an unforgettable lesson on the evangelical spirit, and to perform a kind of ritual for the expiation of the scandal. Therefore, the use of those riches was entrusted to the humblest of God's servants, who could take pleasure in nothing for itself, bound as he was by his vows to absolute and perpetual poverty. It seemed as though the spirit of Christ were present here in living form.

At last, the crisis came: The ministry of which I was a part resigned. As soon as this was made known, the usual Monsignor came to see me through whom for more than three years perfect communication of ideas, intentions and work had been maintained. He said that the Pope had called him and had instructed him to come to me immediately with the following message in his name: That His Holiness was deeply touched at hearing of my quitting the office; that he was greatly pleased with the relations he had had with me; that for this, he extended me his gratitude; and finally, he added, he sent me his Apostolic benediction.

How mysteriously virtue overcomes the heart! Any other Pope, prudent and cautious in politics, would have hesitated a long time and even probably have refrained from such a benediction to the Italian Minister of Grace in Rome, thinking of the interpretation that might be made of it. Any other

Pope, prouder and more diffident ecclesiastically, would first have taken care to inform himself of the faith and observance of him to whom, unasked, he was sending his benediction. But Pius X, in this, was one with the soul of the Apostles. He felt that in the world of the spirit, one conquers by continually giving, even to him who does not ask, without restriction, without condition, without reserve.

Of one thing I am sure. During my long, eventful life, in the most tragic or in the bitterest hours, the holy act of that aged man has always had the power of arousing in me the most profound emotion, and has been an inexhaustable source of comfort, hope and faith.

II

THE STATE AND THE CHURCH IN ITALY DURING THE WAR

The World War has been defined by some as a palingenesis; and it is true that there has never been a time in history when this ancient metaphysical doctrine has not been encountered in the midst of widespread suffering and destruction. It has profoundly influenced doctrines and systems, and has caused to be questioned the principles, ideas and institutions in which the gravest social, economic, political and spiritual problems that tax the mind of man were apparently ordered.

It is natural, therefore, that it should also have been a factor in connection with a great question which though Italian in, let us say, its topographical origin, became in turn worldwide because of the universality of its issues — the question of relations between the Church and the Government.

This question, that of itself formed the history of Italy and the whole world, reached an acute phase in 1870 when the temporal power of the popes was reduced, and Rome became the capital of Italy. Little by little, it quieted down into a kind of *status quo* that maintained a curious contrast between its form and its substance.

In form, the two civil and ecclesiastic powers continued openly opposed; one of them — the

Church — even refused to see the legitimate existence of the other.

In substance, the two powers reached a practical mode of pacific coexistence whereby they functioned without in the least infringing on each other. In fact, they at times lent one another the silent aid compatible with a formal, official state of profound and irreconcilable dissension.

We cannot discuss here the formation of these relations. We can only say that its history honors equally the Holy See and the Italian Government for its sense of proportion; in its formation both powers were actuated by incomparable Latin finesse, and a *modus vivendi*, empirically created, definitely acquired the solidarity of a Roman monument of a better age.

A great part of the merit of this achievement must certainly be attributed to the juridical form created by the Law of Guarantees when there was a problem to solve similar to that of squaring the circle. The problem was to carry on a relation, in itself bilateral, in a manner necessarily unilateral — with the treaties concerning this situation meeting an absolute, preconceived principle on the other side. That law truthfully belongs to the golden age of the Italian Parliament. In the Cabinet that supported it were such men as Giovanni Lanza, Quintino Sella, Emilio Visconti-Venosta, and Cesare Correnti. The commission which examined and referred it to the Chamber called in two opponents with the purpose of giving it serious and profound elaboration: Ruggiero Bonghi and Stanislao Mancini.

If this law, the result of the collaboration of so

many able men, failed to make provision for times of war, it certainly was not from negligence or lack of foresight. On the contrary, the parliamentary records show quite clearly that the omission was noticed and in a certain sense deliberately desired, because of the difficulties of regulating such periods with adequate formulae generically normative. These were almost insurmountable difficulties.

Thus, when the war did come, the silence of the law permitted the Italian Government, in a practical way, ample freedom of action. The government could very well have availed itself of those slender theories that the German jurisconsults just before the War had brought into being with the so-called *Luecken im Recht*; and with reference to this lacuna in the Law of Guarantees, it could have made application of a "Just Right," or of "General Principles" of common right or equity. In the trial the State was passing, such an act meant application without opposition of the law of necessity that, because of war, subordinates everything to obtain the means of defending the State.

The Italian Government did not choose to make use of such an interpretation. From all the problems there immediately arose one more formidable than the rest: whether or not the enemy's embassies and legations were to be held. But when Salandra, Sonnino and I, in the first anxious hours, had to formulate political policies for this subject, we did not have a moment's hesitation. There was not the slightest disagreement between us. Though of different temperaments, as Italians and liberals we had the same reaction; and we at

once announced this fundamental necessity: In the midst of war-time exigencies, it was of the first importance to Italy to prove to the world that her obligations assumed toward the Sovereign Pontiff would be kept in spite of the most critical event.

Our program summed itself up in this brief proposition: The fact of the War should exert no influence toward diminishing the guarantees assured by law.

Thus, not only were all the absolute prerogatives of the right of active and passive legation reserved intact to the Holy See; not only did the Holy See have the right of secret postal and telegraphic service without interference or regulation during the War, and the right to send messengers and baggage under immunity. Italy did still more. I myself, at that time Minister of Grace and Justice, made the following concise announcement to Parliament: That to fill in the lacuna relative to war in the Law of Guarantees, the Government not only excluded every restrictive interpretation, but even read in an extensive interpretation. In other words, not only should the Holy See retain all the prerogatives expressly allowed by the law in times of peace; still others were recognized that the law had not provided for, precisely because the possibility of the war had not been foreseen.

I shall cite only three examples of such an extensive interpretation, but ones that are sufficiently significant: 1. The provisions against the residence of enemy subjects in the Kingdom were not applied when such persons held offices in service of the Holy See. 2. High ecclesiastic functionaries were allowed free entry to Rome, even though they

were enemy subjects and came from enemy nations. (In this way, Austrian and German cardinals, bishops and heads of religious orders came to Rome many times during the War and left again unmolested.) 3. Since the Government had reserved the right of exempting from military service those persons whose cooperation was necessary to the essential civil service of the State, the same right was in like manner allowed the Holy See for its ecclesiastic or lay functionaries who were exempt from military service on the declaration of indispensability made by the hierarchical officials.

In politics, the spirit in which a disposition is granted is of even more value than its formal expression. And I might mention that I never hesitated to assume in the name of the government full responsibility to prevent acts not conforming to the professed purpose, and to diminish the repercussions from events capable of disturbing those relations, with public feeling at the pitch it was. I refer to cases where some unfortunate incident demanded that penal justice (always a delicate matter) be applied to persons living in the Vatican, who in the exercise of their office had succeeded in abusing the good faith of their superiors.

On the 21st of November, 1915, in a speech at Palermo, I pointed out this attitude. After having stated the decision of the Italian Government to support the Law of Guarantees and even to make it more flexible in spite of the war, I added: "In all the former great struggles of interests and peoples, that were no greater than the present one, the sacred quality of the Head of the Church did

not prevent the temporal sovereignty from suffering persecutions, violence, imprisonment and exile, from the times of Gregory VII and Boniface VIII to Pius VII. The present terrible conflict has not saved the most unquestioned principles and the most powerful empires; it has shown how much the most solemn international agreements are worth. Yet, the Sovereign Pontiff governs the Church and exercises his high office with all the liberty and skill proper to the supreme authority he holds in the spiritual domain."

The Holy See did not give attention to these words, and in his consistorial address of December 6, 1915 (the later date showing that a reply was in order), the Sovereign Pontiff repeated his protest against the Italian Government made on assuming the pontificate November 1st, 1914, and added: "I do not deny that those who govern Italy have the good intention of eliminating undesirable features; but this clearly proves that the position of the Roman Pontiff depends on civil powers, and that with the changing of men and circumstances, it, also, can change, and perhaps for the worse. No sensible person can say that a condition so uncertain and so subservient to the will of an outsider is satisfactory to the Apostolic See."

This reply although attenuated by the manner of its expression, at first sight takes on a hostile character. Nevertheless, if we regard this from both viewpoints, we see that the apparent irreconcilability between my speech at Palermo and the consistorial address may be eliminated by recalling the distinction I made above between the formal and the actual sides of the relations between Italy

and the Holy See — or, as it might be expressed, the distinction between juridical practise in the legal situation, and in the actual situation.

The truth of the matter is, the Holy See had not to make any considerable sacrifices resulting from all the enormous difficulties created by the War (in spite of the vexations, the damage and the actual restriction of rights that neutral countries, which were even sovereign governments, had to undergo), the Holy See's complete guarantees were maintained, and its liberty of action was absolutely independent of every extraneous intervention.

However, when the Holy See formulated its protest it evidently did not mean to refer to the actual situation, but rather to the juridical structure. Hence, the expression quoted insisted especially on the idea of the possible change of "men" and "circumstances." According to the fundamental thesis professed for centuries by the Church, every possibility of full and absolute action cannot be considered as a concession from the sovereignty of another State, but rather as a right of its own that formally and originally belongs to the Church without the recognition of any other governmental authority.

The historian, therefore, who wishes to study what was done for the Church's cause during the War, and what the situation of relations was between the Kingdom and the Holy See, should understand that the situation remained unchanged from the fundamental opposites mentioned at the beginning of this article. This formal discord was again solemnly reaffirmed; but, on the contrary, relations in actuality were carried on in as friendly

a manner as the circumstances permitted.

We have now seen how the Italian Government comported itself. The Pontiff, even when he repeated his formal protest, acknowledged in the words quoted above that he did not deny that "those who govern Italy have good intentions."

As to the comportment of the Holy See, that, to my mind, cannot be rightly judged if an essential distinction is not kept in sight. The consideration of a *special* policy of the Holy See toward Italy during the War should be differentiated from the consideration of the *general* policy that the Holy See thought best to follow in respect to the world conflict.

There have been some writers with anti-clerical tendencies who, forgetting this distinction, have tried to put the Vatican's policies in an unfavorable light, as though it were specifically and intentionally hostile to Italy. They have assumed that from the beginning of the War, the Vatican decidedly favored the Central Powers, and that only later, when their victory continually grew less probable, the policy was modified to a pretended neutrality not without discarding, however, a basic preference for the Allies' enemies.

Even granting for the sake of argument that these charges were well warranted (though this would be an over-simplification of such a complex matter), their influence seems quite negligible on the question of the Holy See's special policy with regard to Italy. From this point of view, in fact, it seems unfair to form judgments on what might have been the attitude and purpose of the Holy See toward the War, considered in its complete

worldly and universal scope. No sensible Italian has ever thought that the Church could compromise, much less sacrifice, its divine, universal nature to serve the interests of particular nations. And this general fact is a much more delicate matter as regards Italy, since territorial compenetration more easily fosters the suspicion of favoritism.

The thorough comprehension of this necessary state of affairs has been one of the most powerful mainsprings — as much as it has been concealed — of the policy followed by Italy's statesmen toward the Church. For precisely this reason it should appear perfectly natural that the Holy See would have its own thoughts about the War, that it would pursue its own directives, and that these would be entirely independent of Italy's own purpose in the War. This is not the place to pass judgment on that general policy: we must only consider the particular attitude assumed by the Holy See toward Italy.

Thus, putting the question fairly, it must be admitted that the attitude of the Holy See toward Italy during the War was that which could be reasonably expected, and was exactly the same attitude the Holy See assumed, by virtue of a general standardized criterion, toward all the various Catholic countries fighting against each other.

The condition of a state of war in which Catholics were fighting against Catholics, obliged the Church to follow an extremely delicate policy that may be summarized in the freedom given its believers on both sides to fulfill the duties demanded by their own countries. It can truthfully be said that the patriotic sentiment of Catholic Italians

was as much respected as that of Catholics in France, England, Germany or Austria, without permitting the existence of a special disagreement of the Church with the Italian Government to produce any inferior condition damaging to Catholic Italians, or to their country. Consequently, with the spiritual consent of the Head of the Church, Italy had its military bishop and its chaplains. Archbishops and bishops (even though cardinals) spoke and prayed in Italian churches for Italy's victory; and the entire clergy nobly did its duty to the nation. If there were exceptions, they did not originate on orders from the Holy See; they came, instead, from sources far more political than religious. In fact, at that time the political organization of Catholic forces was begun that constituted the so-called popular party. It is known that this party, in order to encroach on the Socialist party, imitated the latter's methods and conformed with its ideas to a certain extent. A more or less open aversion was gradually shown by that party to the War, and this tendency was not avoided by a section of the clergy — usually rural and in the northern portion of Italy — which fervently adhered to such political agitation.

But we may pass over such tendencies. We must, however, quote an important statement given out during that momentous time. Every Italian, every Catholic, — anyone who appreciates and admires the great history and spiritual power the Papacy represents — cannot help but praise the incomparable nobility of the words of Cardinal Gasparri spoken in the name of the Holy See on June 28, 1915: "The Holy See, in respect to its neutrality,

does not in the least wish to create embarrassment for the Government (of Italy). It puts its faith in God, awaiting the possible systematization of its situation not by foreign arms, but by the triumph of those sentiments of justice that, it is hoped, are continually spreading through the Italian people in accordance with their true interest."

I think I shall not be accused of exaggeration when I say that these words have an unequaled historic value, if it is recalled that during the history of the Papacy the armed intervention of this or that King or Emperor was often enlisted in defense of the Church's temporal rights. Though Italy suffered greatly from this, and though (without wishing to assume an anti-clerical view) this was one of the principal causes for which her national unity was so retarded, it must also be granted after just consideration that the Church suffered considerable injuries, and that only too often its temporal advantage was accompanied by detriment to its spiritual prestige.

In this sense, therefore, the words spoken by Cardinal Gasparri with such noble independence seem to have been inspired by a different spirit. They unexpectedly touched the point where, formerly, the Roman Question was translated into military terms; and for this, every Italian should remember them with admiration.

In concluding this inquiry into the relations between the State and the Church in Italy during the War, it must be clearly established that the War did change, but also in a sense reconfirmed, the situation which during peacetimes had been consolidated by a wise policy on both sides; while at

the same time the antithesis between the substance and the form, between the fact and the law, remained equally unchanged.

The War was a brilliant proof of the practicability of the Law of Guarantees and of the Italian Government's unwavering loyalty in wishing to apply it in its entirety, even in critical situations and at the cost of sacrifices. From the Holy See came new proof that the defense of its intransigent principles would not prevent it from advising that other order of practical necessity deriving from the fact that Italy is a Catholic nation, and that the inhabitants are compelled at any cost to reconcile their religious beliefs with their feelings as citizens and patriots.

On the other hand, the War confirmed the dissonance of formal relations and made it far more evident. This was a formal disagreement resolving itself into two obviously impossible postulates: That the Italian Government could not consider its Law of Guarantees other than as an act of internal public law; and, that the Holy See could not admit any other source of its own sovereignty that did not derive from itself, from its divine mission, and from its historic right, with absolute independence from every other territorial sovereignty.

All these elements to which we have given attention and which we have tried to set forth clearly and impartially, have given support to the recent revival of the whole question of relations between Church and State.

III

FURTHER DISCUSSION OF RELATIONS BETWEEN THE STATE AND THE CHURCH DURING THE WAR. "A LABORATORY EXPERIMENT"

The question of relations between the State and the Church had, due to the War, a kind of renaissance in Italy, and caused widespread discussions and controversies. Not only political parties and newspapers of various tendencies engaged in this revival, but even studious men made learned contributions. Among the latter, there was especially the series of articles published in the *Nuova Antologia* by my friend Francesco Ruffini, the brilliant professor of ecclesiastic law at the University of Turin.

These articles have great historic and scientific interest inasmuch as they treat of the whole of a vast literature that during the War arose in Germany on the Roman Question. This literature consists of numerous publications, books and magazine articles, that in themselves form a small library. Catholic and Protestant writers, professors and politicians with the most diverse ideas have made their contribution. There have also been men well known outside of Germany, such as Father Ehrle, the learned Jesuit who was for many

years custodian of the Vatican library, Erzberger, the active political leader who died so tragically, and all the present day expounders of German constitutional law, from Laband (who is a Jew) to Bornhak and Kohler.

The point of departure common to all is that Germany, victorious in the Great War and master of the world, should number among its duties that of "punishing Italy"; and as Bismarck declared, what penalty is there more severe than stirring up to her disadvantage the Roman Question? In other words, the War being concluded, with Germany certainly triumphant, the inexorable *Vae victis!* of the modern Brennus would arrive in Italy — which would be defeated and completely crushed, yet filled with every kind of overwhelming foreboding, as in some Aeschylean situation.

Rome! Everything turned on this point.

Such unanimous preliminary agreement sets in still sharper light the discord that exists when mention is made of the actual method by which this program is to be put into effect. — Many heads, many opinions.

The interest to investigate grows stronger for this reason; and also because these publications, in addition to being purely historical and literary curiosities, have a certain utility. We may, in fact, consider these German discussions as an elegant "laboratory experiment," with this basis: given the hypothesis that Italy no longer counted in the world and the Roman Question could be decided independently of her, even against her, what arrangement would be preferable?

By virtue of these suppositions, the student was

given perfect freedom. If the knot was hard to untie — why, was there not the omnipotent sword of Siegfried to cut it asunder? Now, then, said the German writers, Rome is ours. What shall we do about it?

Together with the widely divergent answers made to this question, there appears one fact that at first seems strange. Namely, that in the inevitable dispute arising among the German Catholics and Protestants to find the best way of humiliating Italy and aiding the Papacy, the Protestants were more impetuous and the Catholics more cautious. This is apparently a contradiction, though easily explained when we consider that the Catholics' advantage was not disjoined from the accompanying thought of the condition in which the Head of their Faith would find himself. The Protestants not only did not show this feeling, but must have even found it doubly desirable, both for their secular and religious conscience, to humiliate and punish Italy, and at the same time to have a pope in absolute dependence on the authority of the Kaiser. In other words, to recreate for the benefit of Germany a kind of Avignonese Papacy!

Thus the possible solution of the Roman Question came to be considered in two general forms: Either as the reconstruction of a temporal power, or as the creation of an international guarantee.

The first idea that came to mind was the restitution of Rome to the Holy See. But this idea, attractive as it was and simple as it seemed at first sight, presented so many difficulties that it was immediately rejected, especially by writers who had a greater sense of responsibility. At the same

time, other serious difficulties arose that were involved with the absolute essentials of the Church's internal policy. The power of the Sovereign Pontiff, through theological necessity, cannot be exercised other than as an absolute power. It cannot adapt itself to certain transitions that at times despotic governments cannot escape. For that matter, even the German writers reasoned on the hypothesis that a Modern State cannot exist other than constitutionally. Where, then, could be found the point of reconciliation between the authority of a spiritually infallible Sovereignty and the authority of the same Sovereignty subject politically, at least, to restrictions and regulations, if not actually responsible to superior control?

Even more serious and insurmountable than these internal difficulties, however, were those connected with the external policy. In spite of their obsession with German omnipotence, the Germans themselves declared the impossibility of a solution that, giving the Church the government of a people necessarily rebellious, would have demanded the institution of permanent military occupation by the protectoral powers. By an odd logical process of involution, the solution that turned on the proposal of investing the Papacy with a maximum of power and authority amounted practically to its maximum humiliation and impotence. Hence, we understand why the greatest disapproval came from the Catholics themselves.

This makes me recall the answer a very shrewd priest gave me many years ago when, jokingly, I asked him what he would think about Rome's be-

ing restored to the Church. He raised his hands to Heaven, and exclaimed, "God Forbid!"

The idea of reestablishing a Church Government over Rome having been laid aside — disappearing together with a few other serious plans to replace Rome with other territories, or plainly, to find a true Teutonic Avignon — recourse was had with greater hope and insistence to other types of solutions that may be generically grouped under the title "the internationalization of guarantees." We cannot make an inquiry here into all the possible distinctions and sub-divisions of pure technical jurisprudence. The idea that we have expressed in a generic form consisted substantially in the premise that the sovereign prerogatives with which the Papacy must be surrounded, should reproduce their juridical character and consequent guarantee, not from an internal law of the Italian government, but rather from international agreements with their subsequent sanctions, likewise international.

Relative to this solution, I should like to mention a political dispute that arose in 1908, when I was Minister of Grace and Justice, about what the conditions could be of the official participation of Catholic Italians in public life. The leaders of this movement, who understood very well the impossibility of such participation if the temporal demands were insisted upon, thought they had found the ideal solution in the internationalization of the Law of Guarantees. While such a course eliminated every renunciation by, or territorial diminishment of, the Italian Government, it was also hoped that it would be in harmony with the reasons for

which the Holy See cannot admit that its sovereignty has been conceded by another power.

One day, one of the men with the highest authority in this new Catholic Italian party came to see me at the Minister's office. He was an excellent jurist and, in spite of our political differences, a very dear friend of mine. With obviously the intention of sounding me out, this friend brought the conversation around to the question of the internationalization of the Law of Guarantees, and after speaking with great frankness, finished by asking me what I thought.

"I think," I replied, "that if God gave me the extreme unhappiness of being representative of Italy at the moment she was defeated and at the discretion of the conqueror, and the enemy left me the choice of either ceding part of the territory or consenting to the internationalization of the Law of Guarantees, I should not hesitate a moment; I would prefer to abandon the territory."

My friend, disturbed by this seditious answer, asked me the reason for such violent aversion to a plan which the majority of Catholic Italians thought at that time to be an ideal form of reconciliation.

"It is," I replied, "that a State which loses a part of its territory is defeated, but not dishonored. But a State which allows the control of foreign powers over its internal affairs, diminishes its sovereignty, limits its independence, and virtually places itself under a kind of protectorate. For that matter," I continued, "if I could speak in the name of the Church itself, I should say that such a solution is the worst, even to its own interests, since

not only Italy but also the Church would end by putting a master in the house. Think for a moment. The day one of the guarantee powers came to find its interests in conflict with the Holy See, and at the same time the Holy See in disagreement with the Italian Government, how much illegal coercion, if not actual seizure, would take place!"

Several months ago, I had a very gratifying experience. I met this friend again who, recalling our conversation, confessed that after having experienced the War and the post-war period, he saw very well how right I was.

To return to the "laboratory experiment" and to the discussion that took place in Germany — there too they considered the solution by internationalization which, at the same time, would have put Italy as well as the Holy See under guardianship. The question was cut short, however, by the frankly hostile attitude of a high ecclesiastic authority, Father Ehrle. "It is easy to understand," he wrote, "that the Blessed Pope cannot desire an internationalization of the Law of Guarantees."

From the form of this statement, it is easily understood that it was, as they say, authorized. At any rate, with the author's high position in the Vatican and the intimacy he enjoyed with the Pontiff, it is certain he would not have expressed such a thought if he had not known it to be welcome in another quarter.

So, with the restitution of Rome excluded, as well as the internationalization and the search for another Avignon, what remained?

Erzberger in his Memoirs has recorded one of

his projects which would represent the practical conclusion of all the long discussions that took place in Germany on the Roman Question — the juridical and political synthesis of the great “laboratory experiment.” In substance, the project consists in what I should call the mechanic (in contrast to the organic) formation of a State whose territory would be essentially the Vatican hill — on which at present is situated the Holy See — enlarged by the adjacent land, with the purpose of assuring to the State itself direct means of communication over land and water. The population would be derived from an “index” of citizens who would all be components of the Curia and Pontifical Court, functionaries, armed troops, etc. In short, it would be in a manner a State without families, or rather, a State whose people would not reproduce naturally, as all the statutory or prestatutory groups of mankind, but artificially, by virtue of nominations made by the Sovereignty itself.

It is not worth while to analyze here Erzberger's project, that comprises ten articles presented with characteristic German thoroughness. For the purpose of this article, it is enough to have ascertained what were the concrete, definite results of that enormous “laboratory experiment” performed by the Germans. The results cannot but seem highly instructive. Since, as stated, the idea of the investigation excluded all thought of Italy and her own wishes, anyone can see the high spiritual significance of the conclusion reached. This conclusion is so far from what could have been the hopes of the ultra-clerical party, and (apart from the de-

fect deriving from the disagreement between the form and the substance) even comparatively so little different from the actual situation, that the most intransigent Italian writing about the necessity of not modifying the Law of Guarantees, could jokingly promise that the Tiber would be navigable, even for future pontifical ships, resting assured that the law would never oppose this.

But above all, from the results of this discussion we can, with another philosophic point of view, draw a conclusion that is not surprising. It is, that the profound transformation occurring after 1870 of what had been for centuries the ecclesiastic and political, spiritual and temporal order of the Holy See does not only have origins and reasons referable exclusively to Italy (for which reason the seat of the Government in Rome seems to us a national necessity incapable of prorogation, even though others evidently consider it as an abuse of right by force); but in a much larger sense, this order is associated with a profound historical change and with a radically different world-conscience of which Italy appears to be the predestined agent. Because of this, we Italians should have deep admiration for our fundamental law itself, and for its application, now that it is sixty-six years old.

This does not mean that this order should be maintained as a preconceived postulate, absolutely unchangeable. Every jurist admires the Pandect for its excellence as a juridical masterpiece; yet, for all that, no one would pretend that the decisions of its cases in their entirety are still, and shall ever be, abided by. No thoughtful Italian could wish a

disagreement to continue which though in great part formal, was none the less unpleasant and harmful; the question (and a serious one) concerned the manner and the moment in which to adjust it.

It is certain, in any case, that the obstacles for the greater number of Italians derived exclusively from objective difficulties and not from preconceived aversion. In this aspect, one of Ruffini's most suggestive pages is that one in which he makes a contrast between Bismarck and Cavour in their attitudes toward the Papacy. Cavour, foreseeing by ten years the seizure of Rome, had the courage to proclaim Rome the capital of Italy; and yet, with how much respect, and (without exaggerating) with how much religious feeling, he always regarded the Church as a divine institution! Bismarck, on the contrary, though not a brutal exponent of *Kulturkampf*, in spite of the favors he extended the Holy See in order to force Italy's entrance into the Triple Alliance, was always a haughty Protestant. He considered the Church with the scorn of heterodoxy, persecuted it when it rebelled, and humiliated it when he wished to make an instrument of it. This contrast between the two men in their relations with the Papacy cannot be fully understood without going back to their remote heritage: For Camillo Cavour had among his ancestors the great saint, Francesco di Sales.

Of such antitheses, filling by themselves Italy's entire history, I do not know of a similar incident more magnificently significant than the following: Roger the Great, King of Sicily, after having

defeated Pope Innocent II and taken him as a prisoner of war, assigned him a royal pavilion and went to visit him with all his court. As soon as he was in his presence, he kneeled down before him. — The King was forced to fight the Pope as the leader of an enemy army, and after having overcome him, to make him prisoner; but to the Vicar of Christ, the King was bound to pay the tribute of his religious veneration, and to afford him the highest honors.

IV

FROM BENEDICT XV TO PIUS XI

Several writers have made the observation, which has been often repeated, that with the succession of Sovereign Pontiffs, the Church has succeeded in accomplishing for itself that which in lay governments has occurred with the change of political parties, permitting the mutation of tendencies and programs.

If this statement is taken literally, it may constitute, I believe, a serious error, since the Church, especially in its proper spiritual domain, does not and cannot have but one direction and one program that is joined with a tradition two thousand years old—namely, to preserve the enduring essentials of the Dogma through the profoundly mutable contingencies of periods of history in various civilizations with which the Church has continued to be in contact.

A certain basis of truth may, perhaps, be allowed that observation if taken in the narrow sense that it does not refer actually to the necessarily invariable political principle of the Vatican, but rather to its forms, methods and external technique. Since these elements depend a great deal on the temperaments of the men who succeed each other in the government of the Church, it may also be admitted that the choice of who will be in-

vested with the Supreme Office is influenced by the more or less conscious mental estimate of the greatest advantage the Church, in relation to the special immediate contingencies, may gain by a certain especially well-equipped personality. It is true, at any rate, that in the Sovereign Pontiffs who have succeeded each other from 1846 to the present day, the contrast of character has been great, but at the same time well suited to the Church's interests. This is a short period of time compared with the Papacy's history, but one crowded with more serious events than were ever witnessed in other century-long periods.

The pontificate of Pius IX may very well be said to comprise a whole era in which temporal power was restricted while Rationalism became more dangerous, because of both the threats and the act of the Reform itself. The Holy See, meanwhile, had to adapt its course of action to the mutation of conditions. Hence, the character of the Sovereign Pontiff could seem uncertain and contradictory to some, while it found its internal unity in the tumultuous passion and ardent faith of the man himself; and its external coherence in a dogmatic, absolute intransigence that culminated in the Syllabus and in Infallibility.

The figure of Leo XIII, however, followed in formal contrast. His was a fine, aristocratic spirit; he was an extremely capable diplomat, not unmindful of the demands of the times, more inclined to mutual accords than the most splendid isolation. He induced the French clergy to accept the Republic, and forced Catholic Ireland and Poland to reconcile themselves to the non-Catholic

governments of England and Russia. In contemporary questions that most held the people's interest, he intervened with his encyclical letters—admirable for their beauty of form, and in all of which there was a modern approach, from the *Aeterni patris* on Christian philosophy to the *Rerum novarum* on the labor and social question.

His successor, Pius X, resembled his namesake more than indicated by the adoption of his title. The famous prophesy of Malachi, *Ignis ardens*, may be suitably applied to him. He was inspired with an ardent, noble spirit that considered everything as a kind of faith and that scorned the circumspection of form and the opportunism of methods. Although gentle and evangelical, he was inexorably severe when it was the question of repressing the inroads of Modernism; and he showed the most magnanimous intransigence when without hesitation he attacked the grave consequences of the break with France, the primogenital daughter of the Church. Through so many struggles he remained the holy man who sought out humble souls, the true type of Holy Father, incomparable as well for the goodness of his heart and the simplicity of his manner as for his inflexible firmness where it concerned constant faith in his mystical resolution to restore everything to Christ.

The outbreak of the World War caused him to die of a broken heart.

The new Pope, Benedict XV, presented another antithesis of temperament. Educated in the great diplomatic school of Leo XIII and Cardinal Rampolla, he bore the stamp of its political men-

talities, though combined with his own originality. He strongly felt the force of his passions; but being of a firm, tenacious character, he had the power to dominate them, and would concede nothing to the first impulse. He labored at his tasks with an assiduity that knew neither impatience nor weariness, exaltation nor depression, so that the rhythm of his work had always the regularity of a chronometer. In addition, he possessed an acute, fine quality of intellect endowed with equilibrium and a sense of proportion. Recalling these qualities, together with his profound technique acquired by long experience, we can easily understand that Benedict XV had the greatest qualifications for a diplomatic pope, and that in practical affairs he had all the force of this type, while avoiding, at least in part, its weakness.

Men of this temperament usually have little ability to arouse mutual friendship in those around them or great enthusiasm in the multitude. The light they radiate is clear but cold. And though this quality may do only slight harm to a professional diplomat (who, in fact, often cultivates it), for a Shepherd of souls it more or less constitutes a weakness. Nevertheless, Benedict XV possessed other personal qualities that made up for this deficiency. The high sense he had of his authority as a super-human charge, together with the harmonious correspondence it found in his gentle-born manner of a Genoese nobleman of an ancient family, conferred a hierarchic austerity to his figure, so that the respect he inspired compensated for less fervent sentiments.

It is important, however, to point out the char-

acter of the great epoch during which he was Pontiff, and how it seemed predestined that his special qualities should be suited to the demands of the times. The successive diplomats of that pontificate, as outstanding as they were, did not increase the importance of the Church's government, as we see when that epoch is compared with its entire history; and this is true, even though we refuse to believe that perhaps all those apparent successes—such as the reestablishment of diplomatic relations with almost all the Catholic and non-Catholic governments of the world, and the reconciliation with France—were gained at the cost of renunciations and bitter sacrifices. But such considerations lose importance when we reflect that historical judgement of the work of Benedict XV will hardly be made by them, but rather by the fact that his brief yet greatly agitated government was entirely conditioned by the World War and its immediate consequences. Under this aspect, that period may well be compared with all of the Church's most important and decisive periods.

It was a terrible trial for the Church. The war seemed without precedence and without comparison, not only by reason of its extent and violence, but also because it had thrown the followers of the same religious faith against each other. Nations professing the Catholic religion (as well as Protestants, Orthodox and Mohammedans) were divided into two camps, according to their nationality. The violence of hostilities and the danger that threatened the very existence of nations seemed to exceed the strength that had been created by spiritual unity in one religious faith. As an ex-

ample of this, we see that the religious war proclaimed by the Caliph against the Allies subsided and remained almost ineffective—in spite of the fact that Mohammedans confound the religious with the political ruler, and that their faith is far more primitive and dominating than the refined, complex faith of Christian peoples.

This example raises the question, what would have happened between Catholics if the leader, the Sovereign Pontiff, had manifested his preference for one of the two belligerent sides, and had tried to place his spiritual power at its disposition?

No one could ever have thought that there was any other stand for the Holy See to take except that of neutrality; and although it is easy to make such an obvious statement, innumerable difficulties and dangers confronted its execution. A lay government can observe the rules of international law relative to the obligations of neutral nations; but the neutrality of a Pope cannot be such a cold, passive abstention. In the office of the Sovereign Pontiff there is an element by which he always affirms his ethical and spiritual superiority over all governments and all peoples; this element cannot but be constantly active. The title itself of Holy Father ordains the function of vigilant protection and loving care over the great family of believers. It is a function that cannot be annulled by an attitude of prudent disinterestedness when a deadly conflict breaks forth threatening to tear the family asunder. In the spiritual domain, the most correct political neutrality may seem pusillanimity if the policy of the Sovereign Pontiff prevents him from issuing an exhortation or from expressing his

judgment, if not his rebuke. No form of opportunism can excuse the Pontiff from addressing to the people afflicted by the greatest misfortunes, especially if they are believers, his word of comfort, and to recall them to the Christian tenets of love, charity and pardon.

How, then, could such a voice speak in a world entirely invaded by conflicting sentiments, by anger, hatred and revenge? Even the most direct agents of the Holy See's authority participated in the national passions of the belligerent peoples. Cardinals and bishops, the regular clergy and the secular, succeeded only with difficulty in freeing themselves from the confused surroundings in which they lived and from the incoercible solidarity of their nationality.

With such a condition of aroused emotions, it is not surprising that the fact of neutrality, even though scrupulously observed, should arouse protests that were as vibrant with conviction as they were unconscious of their own injustice. The people, in the midst of severe affliction, had been urged to call on the age-old traditional mission of the Head of the Church who, as the supreme judge, intervened in temporal struggles in the name of Christ — in the name of a divine eternal justice. The reasons that dissuaded the Pope from assuming such an attitude and obviously rendered the hope of success very poor, serious as they were, were also reasons of convenience and opportunity. It was easy for them to appear cold, selfish and calculating. Worse still, the doubt that usually insinuates itself into anguished minds suggested the idea that this declared neutrality did not corre-

spond with an equally impartial sympathy. Thus, the attempts the Pope was induced to make to stop such enormous destruction were received with little welcome — witness only the bitter comments aroused by the famous peace message of August 1, 1917.

Due to the War, the political problem of relations between the Holy See and Italy was complex and formidable; and it was for Benedict XV to find a solution. I should like to pause on several points of this problem, giving at the same time an account of my uninterrupted personal relationship with the Pope. So many incidents come to my mind regarding this, however, that there is no space here for their mention. And besides the quantity, their quality prevents discussion. Many people urging me to publish my "Memoirs" overlook, among others, this difficulty: A statesman, even before the so-called bar of history, is obliged to be reserved if he does not wish to sacrifice to vanity his sense of loyalty to his responsibilities, especially when what is important to him is not praise but the fact that he did his work.

I shall limit myself therefore to a few purely formal recollections. Becoming Minister of Justice and Grace in November 1914, about three months after the outbreak of the War and about the same length of time after Benedict XV had taken office, I was able to establish continual and almost direct relations with the Pope through the late Baron Monti. Baron Monti was under me as general director of the Church Fund, and knew the Holy Father quite well, as they had been school-mates since their youth. My first contact was dif-

ficult. A bitter disagreement almost arose between us in reference to the nomination of the Archbishop of Genoa — the office occupied by the Pontiff before his election. But a mutual trust — not born in a spontaneous manner such as with Pius X — slowly formed itself.

I had a flattering proof of this in 1916 when the crisis developed in Salandra's Cabinet, and I passed from the Ministry of Justice to that of the Interior. Then the Pontiff absolutely of his own accord advised the new President of the Council, Hon. Boselli, of his wish that relations of a political but not administrative character should be continued with the Minister of the Interior — with me — although I did not have the official title of authority. I could therefore attest to the fervid, alert spirit in which the government of Benedict XV followed all the various, complex questions raised by the War; and I can say, briefly, that the nobility of his proposals and the eminence of his mentality were always equal to the task.

Did he think for some time, as many did, that the Central Powers seemed more likely to win? I am inclined to answer that he did. However, this does not in the least confirm the accusation made against the Pontiff of pro-Germanism. If anything, it would justify some of his attitudes and acts which seemed inspired by excessive caution in his relationship with the Central Powers. Perhaps he thought that the maintainance of his prestige at a high level in one of the two camps could later better serve the cause of the people to whom victory seemed less probable.

This point and many others will no doubt be

studied by other writers; but History, serene and impartial, will acknowledge that a more arduous task was never assigned to a Pontiff, nor a more tremendous responsibility placed upon him. It will also admit that the task was performed; and while allowing some human error, it will judge him with admiration and respect. Certainly in no other way could I express greater praise of this man.

The value of the man and his work cannot be justly estimated except in relation to the difficulties encountered. We would not judge a sea captain's ability solely by the condition of his ship at the time of docking; we would also consider the severity of the storms it had passed through and the difficulties it had endured. According to the mystical symbol, Saint Peter's State is a ship; and among all the successors of the fisherman of Galilee who have stood at its helm, very few have encountered such a formidable tempest and weathered it without sacrificing any of the sacred cargo. — May an Italian be allowed to add that, what contributed to this miraculous event was the vessel's liberation from its dangerous weight of temporal cares?

In its entirety, the Pontificate of Benedict XV represents a great parenthesis entirely dominated by the extraordinary events of the War and the post-war period. And as the hope is firm that Humanity will reacquire its physiological equilibrium that was tremendously overturned and make its way on the highroad of civilization, so certainly the Church will proceed in its function, so arduous that it makes the fact itself of having thus far performed it seem providential: to main-

tain firm and unaltered the divine mission entrusted to it two thousand years ago, and at the same time to adapt itself to the incessant, essential mutation of people's institutions and of the primary elements of civilization.

Even while the election of the present Pontiff was being carried on, there was a long discussion of the contrasts between various tendencies, of reconcilability and intransigency, of religious and political popes.

Let us recall what was said at the beginning of this chapter: these contrasts cannot concern the unalterable substance, but only the forms, which depend on the changeability of human character.

The first impression received by the arrival of Pope Ratti made one believe that here, too, for what concerns forms and methods that may depend on the personal character of the Elect, the most Eminent Electors wished to find a temperament and an accord midway between extremes. It cannot be said of the present Pontiff that he has dedicated the whole of his ecclesiastic life to the care of souls, as did Pius X, nor to diplomacy and the policy of the Curia as did Benedict XV. In Pius XI the spiritual and intellectual element prevails. He first became known as the possessor of great knowledge, and then as so eminent a scholar that he seemed worthy of succeeding Father Ehrle as curator of the most famous library in the world, the Vatican. At the same time, he is far from appearing to be a *homo unius libri*. He shows, on the contrary, great versatility and intelligence, since he could pass from the peaceful aula of a library to a busy nunciature, and from there to one

of the most illustrious archbishoprics — the one of the Cathedrals of Sant' Ambrogio and S. Carlo Borromeo.

By his first act he broke the tradition of various popes elected since 1870. He chose to impart his first benediction from the outside balcony of Saint Peters while the people, profoundly stirred, knelt in the immense square. This act may have a historic value that only the future will reveal; but in any case, it shows a rare quality of resolution and a character endowed with unusual will-power.

The title he assumed — Pius XI — indicates a special devotion to the great Pope who perceived his eminent worth and called him to Rome, where his high destiny was proved.

V

THE PRECONCILIATION

The disagreement between the Church and the State of Italy arose virtually in the moment in which a national state whose capital had necessarily to be Rome was constituted. It began, however, to be extremely acute when the Italian troops occupied Rome on the twentieth of September, 1870, thereby putting an end to the temporal power of the Pope. In front of the proud intransigent attitude of the Pope, the Italian State did not resort to the policy of revenge; it calmly disciplined its relations with the Holy See through a unilateral act of sovereignty, the famous law of 1871, which was named the Law of Guarantees. I cannot enlarge on the story of those relations; I shall only state that this story contains probably the greatest and surely the most characteristic title to glory of the Latin genius in modern times. It was a masterpiece of circumspection, of tact, of spiritual subtlety. Gradually the violent contrast of the beginning—the Pope even excommunicated the King of Italy—was transformed into a peaceful *modus vivendi*. *De jure* the hostility continued, while *de facto* perfect and friendly agreement was attained.

This admirable equilibrium found itself exposed to a formidable danger when the World

War broke out and Italy took part in it. When the Italian Parliament had approved the Law of Guarantees, the discussion had been extremely difficult, keeping busy the Chamber of Deputies for several weeks. When at last a conclusion was arrived at and the last article was being voted, a deputy raised the following objection; he said: "This law has provided for all questions which may rise in time of peace, but it has not foreseen war; what will become of the guarantees granted to the Pope in case a war should break out and Italy participate in it?" The reply to this objection was made by the deputy reporter of the law, Ruggero Bonghi, a man of great talent and authority, and expressed a discouraged impotence. "We have struggled so much," was the substance of what he said, "to create an arrangement which may serve in time of peace; for heaven's sake, let us avoid foreseeing what would happen in case of war. God will provide for us!"

The war came and I was confronted by a problem which at the beginning had appeared to be insoluble—that is, to adapt to the case of war those guarantees for the sovereignty of the Pope which had been foreseen for the hypothesis of peace. At the moment in which war was declared I was Minister of Justice—a ministry which in Italy includes also ecclesiastical matters. The Italian Government did not hesitate. It understood that a war, which already appeared to be unique in the history of humanity for the fact of its being a World War, would have deep and revolutionary repercussions on all the problems of the world, and, therefore, also on the Roman Question. Con-

sequently, the government decided to insure for its country the right to maintain firmly the sovereign guarantees which had been granted to the Pope in spite of the formidable new fact of the war.

Let us quote one case only. The law had insured for the Holy See the right of active and passive diplomatic representation. The Central Powers, with whom Italy was at war, had, therefore, in Rome their ministers and ambassadors, covered by immunity. Everyone will realize the great dangers which arose from such a situation in the capital itself of the state which was at war. And yet, I repeat, the Italian Government did not hesitate, and declared that it would not object to the permanence of the diplomats of the enemies in the state for the exercise of their functions. Fortunately, the diplomats themselves preferred to leave Rome of their own will, but the Italian State had given a supreme proof of its loyalty and faithfulness to its engagements. In the same spirit the dispositions of the law on the sovereignty of the Pope were maintained and extended notwithstanding the war.

How did the Holy See respond to this loyal and respectful attitude of the Italian Government? The violent passions which always arise from war inspired some harsh judgments on Pope Benedict XV; he was accused of sympathy toward the imperial powers—a sympathy which necessarily implied an anti-Italian attitude. I have had already occasion to protect the memory of the Pope against similar accusations. It is unjust to judge the conduct of others from the point of view of one's own feelings, without taking into account the complex

necessities in which the man we judge is placed.

Even if we leave aside that character of universality which is inseparable from the Catholic Church, we must remember that on both sides were Catholic peoples. It was therefore natural that each of the two parts should consider insufficient the neutrality of the Pope. The Pope, however, surrounded as he was by enormous difficulties, was bound to persevere in that neutrality. My experiences as a member of the Italian Government during the war compel me to declare that the patriotic conscience and sense of duty of the Italian Catholics was respected by the Holy See in the same measure used toward the Catholics of France, England and America. The historical dissension of the Church with the Italian State was not prejudicial to Italy and the Italians. On the twenty-eighth of August, 1915, Cardinal Gasparri, Secretary of State to Benedict XV, pronounced in a noble speech a declaration importing that the Holy See did not intend profiting by the situation of Italy and vindicating, with foreign help, those rights to Rome and temporal power which it yet maintained in principle.

The importance of this declaration will be better understood by considering the spiritual attitude which in those days prevailed on the side of the enemy, and especially in Germany. During the war the Roman Question had there become an argument of extreme actuality. It is well-known that in Germany everyone looked confidently forward to victory. Germany reckoned the "punishment of Italy" among the tasks which it should undertake as soon as she should find herself mis-

trass of the world. The best way to do this would be the settlement of the Roman Question in prejudice to Italy. Everyone agreed on this point—the Protestants as well as the Catholics—but serious and weighty doubts arose as to the concrete realization of this intention. Experience at once revealed this matter to be as delicate and dangerous to deal with as the chemical reactions of the most formidable explosives and of the most intoxicating gases. The first and spontaneous idea was obviously the restitution of Rome to the Holy See. But the practical difficulties appeared at once to be insuperable. Consequently, several curious and extravagant schemes followed one another. According to some, the territory which had constituted the temporal dominion of the Bishop of Trent should be assigned to the Pope; according to others the choice should fall on the island of Elba. Arrangements were even begun—incredible as this may seem—with the house of Liechtenstein for the cession of that principality as the seat of the head of the Church. Liechtenstein in place of Rome; here the high argument really degenerates into a farce!

At that juncture the famous head of the German Catholic Party, Deputy Erzberger, who was so tragically assassinated, expressed for the first time that idea which has been realized in its substance through the strange irony of history by the Lateran Accords. Erzberger's plan included ten articles and consisted of cutting out the Vatican Hill as the territory of a Pontifical State. Two prolongations of land would, however, have to be annexed by which the Pontifical State would

communicate with a railway and with the Tiber, which would have to be made navigable to that spot. The territory had no population in the technical sense; the Erzberger Plan enumerated those who should be citizens of the State of the Church—the members of the Pontifical Court, those serving in the administration of the Holy See and in its troops.

The end of the war cut short all these schemes, thereby exemplifying the Italian proverb: "It is not prudent to dispose of the bear's skin before having killed the bear." But the unthought-of development of events led to the following reversal of conditions: From the middle of April, 1919, onward Italy was considered in Paris far more as a vanquished than a victorious nation. Those dramatic moments are well-known in which President Wilson made an almost personal question of the refusal which he opposed to the most essential national vindications of Italy toward the Adriatic. The omnipotence which Wilson enjoyed in Paris was enough to throw in full disgrace the state against which he was incensed and the head of that state. We must yet observe that the Allied governments of France and England very willingly backed that hostile attitude toward Italy, not only in homage to the arbiter of the world but because, not unfrequently, prejudice against Italy was to their immediate advantage. During a certain period of 1919, and precisely from the twenty-third of April—the date of the famous proclamation of Wilson—to the end of May, all aspirations and requests from Italy were systematically denied; almost no day passed in which I did not

experience some substantial or simply formal bitterness.

So this unheard-of thing happened: The attempt was made to use as a weapon against victorious Italy that Roman Question which the enemies of Italy and of the Entente had intended to raise against a vanquished Italy. Someone tried to speculate on the wrath of Wilson, which at that time was as terrible as that which Homer attributes to Jupiter, and to punish that rebellious Italy which persevered obstinately in the protection of its rights by wounding her in her most delicate and vital interest. Similar intentions were not only expressed in Catholic countries, as Spain and Belgium, but also in the Catholic circles of states in which the majority is non-Catholic as in England and perhaps also in the United States. Naturally, the extreme solution planned by the Germans was not proposed; the purpose aimed at was more modest. It would perhaps have been sufficient to effect the admission of the Pope into the League of Nations. Nothing in such a plan appeared to me intolerable; what I considered intolerable was that an event, even if innocent in itself, should be carried through against the will of Italy, so as to imply for her the deepest humiliation.

I must frankly declare that similar tendencies did not find any encouragement in the two parties to which they addressed themselves. They were not favored by Wilson and the Allied nations because, great as was the irritation against Italy, the spirit of the representatives of those countries did not sympathize with the vindication of the Holy See: Wilson and Lloyd George were non-Cath-

olics, Clemenceau was an anticlerical. As to the Holy See, I am bound to acknowledge that its spirit maintained itself such as had been revealed by the recorded declaration of Cardinal Gasparri. The Pope did not wish to achieve a success which might provoke irreparable hostility toward Italy. The concurrence of these causes prevented the imminence and even the gravity of that danger; but I was, all the same, obliged to take it into consideration and to do my best to protect Italy against it.

At this point, during the second half of May, an American prelate of Chicago, Monsignor Kelly, came to Paris and had some interviews with Marquis Brambilla, an Italian diplomat, whose wife was the daughter of Mr. George von Lengerke Meyer, former ambassador of the United States to Italy and ex-Secretary of the Navy. The purpose of those interviews was to arrive at a direct agreement between Italy and the Holy See. Marquis Brambilla informed me of this and I realized that it was advisable that I should deal with those negotiations myself. Friendly interviews took place between Marquis Brambilla, Monsignor Kelly and me. Monsignor Kelly immediately left for Rome and met Cardinal Gasparri, who, in his turn, informed His Holiness of the matter. With admirable dispatch, proving the attention with which the Pope followed these openings, Cardinal Gasparri at once sent to Paris one of the most able prelates in the Secretariat of State, Monsignor Cerretti, a man of exceptional worth, later called to the highest offices. Monsignor Cerretti arrived in Paris toward the end of May and met Marquis

Brambilla. The historical interview I had on the first of June with Monsignor Cerretti at the Hotel Ritz was thus arranged. He handed to me a scheme containing the chief lines of an agreement between Italy and the Holy See. The fact of its being written and signed by Cardinal Gasparri gave it the highest authority. Its purport corresponded to that of the agreement now concluded—in February, 1929—that is, to confer the character of state, with international independence and sovereignty, on the inclosure of the Vatican, with a certain inclination, however, to include some other confining boundaries.

I have to add that no allusion was made in the document or in the interview to any financial contribution from Italy, nor to any amendment to its legal system capable of exerting an influence on the common law. There was only a general hint of a convention which should successively regulate the relations of ecclesiastical law. I declared that I accepted that scheme in principle—that is, as a base of discussion—and that I limited my immediate reservations as to its contents to pointing out the inconvenience of asking for further extensions of the territory actually occupied by the Vatican. I remarked that the addition of a few thousand square yards would not in any way change things, though it could give rise to difficulties. I remember that I availed myself of a simile which Monsignor Cerretti acknowledged to be impressive. I said that the important question was whether the state should or should not exist and that its larger or smaller dimension was of little importance—as in the field of biology, a microbe was as much

entitled to the name of a living organism as an elephant.

Apart from these questions of modality, I did not raise any objection. My reservations aimed at a postponement of the decision. In order to arrive at this I availed myself of the simplest arguments: The necessity of informing His Majesty the King and of conferring with my cabinet colleagues. I also hinted at the state of mind of the Italian people, which was at that moment extremely irritated at the suspension of any recognition of its national vindications. Monsignor Cerretti acknowledged the validity of my arguments for the postponement of a conclusion, and we agreed that the subject should be taken up again. On the tenth of June I left Paris, never to go back again. On the nineteenth of that month I presented myself at the Chamber of Deputies, where I myself on that very day provoked the vote which, placing my cabinet in the minority, determined my resignation of office and the end of my government.

I wish to emphasize that this chapter only intends to relate some events of indisputable historical importance, not to make any comments or to express any judgment on the political and legal substance of this very delicate matter. I can only add, as a personal remark, that I had at that time the intuition that a new phase was maturing in the relations between the State and the Church. The first quality of a statesman must be a sense of the historical moment; he must know that it is as inconvenient and dangerous to accelerate it as to retard it by arbitrarily moving, as it were, the

hand of the watch. I did not hesitate to subordinate that intuition to another: The intuition that a statesman, in order to accomplish an action of such great historical importance, has to be at the height of his prestige and authority, and that the Italian people must be, in that case, in a state of spiritual tranquillity and peace. On the first of June, 1919, both these conditions were lacking.

The progress of the Peace Conference imposed upon me the patriotic duty of standing aside; public spirit was extremely agitated, as was forcibly proved by the succeeding events. If I had obeyed a sense of personal vanity, the interview of the first of June would have been rapidly followed by the conclusion of an agreement, but this would not have been of any advantage to my country. By renouncing a title which would have added historical fame to my name, I fulfilled a duty.

From a point of view of historical curiosity, my remark at the beginning of this chapter proves to be true. I said that America influenced in two ways this attempt of agreement: Positively and negatively. Positively, because the suggestion which brought about the interview came from an American prelate. Negatively, because, without my tragic dissension with President Wilson, my prestige as head of the government which had won the war and concluded the peace would have remained untouched, and the Italian people would have been peaceful and contented. The two conditions whose absence prevented the conclusion of the agreement would then have been fulfilled.

VI

HARMONY OR ANTINOMY BETWEEN THE LATERAN ACCORDS OF 1929 AND THE LAW OF 1871?

As the reader approaches the end of this book he will see that in it prevail two psychological moments corresponding to two categories of political thought, which at first sight may appear to be in conflict with each other and to be mutually contradictory.

On one side there is the full adherence of the author to the policy of liberal governments in relations with the Holy See, a policy that the author himself exercised as Minister of Grace in the pre-war period, more especially during the pontificate of Pius X, and in the difficult period of the war and the Peace Conference as Prime Minister during the pontificate of Benedict XV. And since this policy exercised by liberal Italian governments from 1870 onwards had in the legal sphere its greatest expression in 1871, in the Law of Guarantees, by which Italy regulated its relations with the Church after the occupation of Rome, the author has, time and, again expressed his admiration for this law which he holds to be the most notable monument of Latin juridical genius in modern times.

But on the other side there is the historical fact

that the author, as Prime Minister of Italy, carried on negotiations with the Holy See and gave his unconditioned consent to an accord the characteristics of which at first sight appear to conform to those met with in the subsequent Lateran Accords.

Since the conclusion of these accords during the Fascist regime was inspired by principles and tendencies not only diverse but even opposed to those of liberal governments, it may be difficult to explain how the political sentiment the author expressed in March 1919 by his admiration for the Law of Guarantees may be reconciled with the consent given to an accord which, when translated into action, was considered a negation of the preceeding regulation.

It is interesting to clarify this point, not only to justify the consistency of the author (a thing of more interest to him than to the public), but also to penetrate more profoundly into the extremely complex nature of these relations. We must at once establish a distinction having decisive importance: the distinction between the political-territorial systematization given to the Holy See by the creation of the so-called "State of the Vatican City" (*materia* mainly contained in the Treaty,) and the relation of the juridical position of the Catholic Church in Italy (*materia* to which the Concordat mainly refers). Under this second aspect the Italian State with the Concordat grants the Catholic religion a preminent position over all other religions and declares it to be the official religion of the State, with all the consequences that are inherent in such a declaration and that concern internal public law. We spoke of this in

the Introduction: The most expressive and characteristic form of this preeminence was in having attributed civil efficacy to religious matrimony and having recognized the legal validity of sentences handed down by the ecclesiastic tribunals regarding the annulment of religious matrimones.

It is in relation to this second effect of the Lateran Accords that we find the sharpest contrast to liberal thought and principles. As a matter of fact, this part was not discussed at all in Paris during March 1919. It would be no less exact to say that I did not refuse it—since a refusal cannot be given to something that is not asked. I repeat, concerning all this part relative to the modification of the internal public law, nothing was asked of me at that time. If it had been, I believe it would not have been considered.

The only subject of the accords discussed and concluded at that time referred to the territorial and political systematization of the Holy See as a universal and international entity, but not, however, in the particular and internal aspect of the situation of the Catholic religion in Italy. Between the two subjects there is no logical affinity which might render them inseparable. All that regards the situation of a religion within a State is, in fact, entirely independent of the political and territorial systematization determined by the presence of the Holy See in the city of Rome. This systematization cannot exist other than between Italy and the Holy See; while the determination of a situation of particular advantage and of juridical superiority can be given—and in various cases actually has been given — to the Catholic re-

ligion by any state, either spontaneously or in the form of a concordat.

In order, therefore, to demonstrate the congruity in my thinking when I adhere to the policy of liberal governments since 1870 (of which the greatest expression is the Law of Guarantees), and to the Accords concluded in 1929, *regard must be had exclusively for that part of the Lateran Accords referring to the political - territorial systematization*. With this established, I can express this thought: the accord to which I gave my consent in May-June, 1919—effective because of its content; by its spirit unchanged from the tradition of government that proceeded it; and because of what was said and what was not said—constituted from my point of view the natural and logical development of the same policy for which I professed, and still profess, admiration and to which I always adhered in my governmental relations with the Holy See. In other terms, I believe that as great as the political value of the accords concluded in 1929 between the Holy See and the Italian State may seem to be and may be, under the juridical aspect it appears as a stage of evolution, a phase of last development founded on the preceding one, which it does not destroy but continues.

Regarding this I have purposely tried to distinguish the juridical from the political side. Politically, the substitution of a state of accords and friendship for a State of discord and hostility (though only apparent) has an importance that certainly no one would deny. It is true without doubt that such transformation was more formal than real. Readers of the chapters dealing with my

political relations with the two Sovereign Pontiffs Pius X and Benedict XV (differing greatly from each other in temperament and character) will easily understand the perfect agreement that, even independently of a formal conciliation, it was possible to establish between the Holy See and the Italian Government. I may add that the examples I have given in those chapters of that agreement are not, especially from the political side, among the most significant. In other cases of far more importance and gravity, the Holy See's activity was able to assist the policy of the Italian State, and vice versa, with a loyal and full understanding that could not have been better established in relations of formal friendship. I do not cite any of these cases because of the sense of reserve which should always guide the statesman. Even when, as in my case, a statesman has not had invested in him for a long time any public quality or authority, he should not, for the satisfaction of his own vanity or the curiosity of the public, betray the faith that was placed in him; the obligation to secrecy is not lessened even where the rights of History are concerned.

But to conclude this subject in a less austere manner, I may use a phrase with which a shrewd Monsignor summed up the nature of the relations established at that time: "The Church and the State, in Italy, make love to each other — but like cats, by night and on the roofs!"

The accords of 1929 have substituted for this form of irregular relation a normal, precise, openly desired and declared accord. And although there are examples of great difficulty that may occur in

the execution of one accord, it is impossible not to recognize the exceptional value of the event under the political historical aspect. The purpose of this chapter is, however, to consider the juridical rather than the political side. Under this aspect, I firmly believe, as I said above, that the régime created by the accords of February, 1929 not only does not constitute (as commonly believed) a negation of or an antithesis to the régime instituted after September 20, 1870 (of which the highest expression is the so-called Law of Guarantees of 1871), but that this régime is a continuation — a continuation, it is understood, that passes beyond a previous state of evolution, but that is nevertheless a logical and natural derivation of a preceeding state.

If a historical-juridical proof of this affirmation is needed, we may simply point out that at bottom the accords of 1929 are to the law of 1871 what an acceptance is to a proposal. It does not matter that the acceptance was delayed for almost sixty years. The entities which made the accords have placed themselves *sub specie aeternitatis*, and for them the years are no longer than the hours in the life of an individual. It matters still less that in 1871 the Italian State gave the unilateral form of an internal law to that proposal — for every proposal is unilateral! Neither can it be maintained, from the historical viewpoint, that though the Italian State of itself instituted a unilateral order for those relations, it was led to do so by its own aggressive spirit, still less by the cupidity of subjecting the Holy See to the imposition of its sovereign will; rather, this was the result of a necessity forced by the firm, prejudiced refusal given

by the other party: *non possumus*. What was conceivable as a manner of beginning a negotiation has necessarily to take the form of a unilateral act. And it can also easily be understood that in any kind of negotiation whoever makes a proposal restrains himself from the extreme to which he is actually disposed to go to complete the accord. At any rate, it is proved by history that if, in 1870-71, the Holy See had wished to consider an accord and to make counter-proposals, the Italian Government at that time would have granted much more than was stipulated in the accords to which I assented in 1919, and in the Treaty of 1929. It should be understood that by affirming this I do not wish to criticize the refusals the Holy See then made in a prejudiced and intransigent manner. I have said before, and it bears repeating, that the hours of history cannot artificially be either hastened or retarded. It was necessary that between the time of Italy's unilateral act of 1871 and the bilateral accords of 1929 all those years should pass and so much history should be made; but this does not take from those two acts their own character of an original proposal followed by an acceptance, even advantageous for the other contracting party.

This established, we may now consider the link of continuity which, I maintain, binds the two régimes in a more direct manner, by comparing the effective juridical content of the two régimes of 1871 and of 1929. Since the difference between the two régimes would at first sight seem to consist in that formerly the Holy See did not constitute a sovereign and independent State and that

this juridical figure was derived from later accords, this would be the place for all the discussions that agitated the scientific world when it was proposed that the new regulation be juridically qualified. We have indicated in the "Introduction" the essential elements of this subject together with all the various and contradictory opinions and tendencies expressed by the jurists. I do not intend to reopen the dispute, to which in fact I wish to remain neutral. But just so that I shall not be accused of intentional reticence, I will say that if I, as "one of the public," had to express my opinion regarding this, I should reverse one of Leibnitz's sayings. Leibnitz, a great philosopher and, which is unusual, a great scientist, said that science is right when it asserts, and wrong when it denies. In the present instance, on the contrary, I should say that, reading the publications about the juridical character of the so-called State of the Vatican City, I find in general that they are all right in the critical and negative part (directed against other theories), and wrong when they are positive and seek to put their own theories forward. On one point, on which all are in accord, I agree: the controversy is dominated in an absolute manner by the special character that must be recognized in the Holy See in such a way as to prevent a definite type from being reached in the present case. We are speaking of a "species" which is not included in any "genus" theoretically definite and defineable. I said that on this all seemed in accord; but perhaps not all would remain faithful to the spirit of such an accord, when, for example some one attempts to define that Entity as belonging to the State genus,

though of a species entirely exceptional. For the addition of "*sui generis*" is no longer sufficient when the specialness of its character signifies the annulment of several essential characteristics of a given notion: *lucus a non lucendo*. But for precisely these identical dialectical reasons I have the same opinion about those other propositions which, negatively, attempt to exclude that generic qualification and say that a "non-State" is under consideration. The Vatican City is what it is — it defies classification.

At any rate, I think that the contrast of such tendencies does not concern the specific purpose of this chapter — the demonstration that between the regulation of 1929 and that of 1871 there is no opposition but a logical connection. In fact, the substantial difference between the two regulations might at first sight appear to consist in that by the regulation of 1929 the quality of a State was recognized in the Vatican City. We have seen in the "Introduction" (page 63) that in this sense there is the express declaration in article 3 of the Treaty ("Italy recognizes the State of the Vatican City"); but this, as we think, has no importance under the purely scientific aspect: the legislator's definitions do not pledge the jurist in an obligatory and coercive manner. Thus there is a large class of writers who, as we saw in the "Introduction," deny the Vatican City the qualification of a State; and from this viewpoint it is evident that that class also denies that there is an essentially different character between the regulation of 1871 and 1929.

For our demonstration we must fix our atten-

tion upon that other category of ideas which, on the contrary, admitting that the regulation of 1929 created a State and attributed sovereignty to the Holy See, thus establishes a radical contrast between the two regulations. But we believe that the importance of the contrast, though apparently radical as to form, is not at all so as to substance; for these ideas, at the same time that they recognize the statal character of that Entity, accompany this recognition with such conditions and reservation as to attenuate its value even to the point where it is annulled.

It is very obvious how this happens when it is considered in a generic form. There is, in fact, a trait common to all authors of this tendency (and it is natural that this is so), namely, the contraposition of two elements: on one side, the Catholic Church as an Institution existing by itself, of a character purely spiritual, religious and divine; on the other side, the seat of the Church, which after 1929 would be the State of the Vatican City. It is precisely in considering the relation between these two elements that the second comes to be subordinated to the first and even contained, incorporated, in it, thereby losing all autonomy and becoming an accessory, and less adequate to serve as a different character.

Having now to pass to some analytical examinations, we can only state that it would be unnecessarily tiresome to take note of all the varying opinions that have been published. For practical considerations we have chosen two authors typically representative though differing from each other notably, if not also substantially. One of

these is Jemolo, the eminent professor of Canon Law at the University of Rome, a jurist of great penetration and profundity. Jemolo considers that the statal character attributed to the territorial seat of the Holy See is active as a "means or instrument of the spiritual sovereignty" of the Holy See: "a State risen to ensure what is needful to the Holy See in order to provide it with the liberty and independence necessary to the pastoral government of the Catholic Church in the world, which does not have, in itself, the capacity or the possibility of evolving in such a manner as to separate itself from this finality." If it could not serve this purpose, it would cease to exist.

As can be seen, such a conception leads us to the very theory itself of the purpose of the State, since here we find that such a given State is considered as purely a means, subordinated to an end that determines its existence; and this end, according to the theory, would be distinct from the State. We can say at once that such a condition contradicts the essence of the State: juridically, we must deny that an end of the State can be conceived which absolutely prescind from a subjective content — that is, that this end is directly of the State itself and that the realization of the State depends on its free and conscious activity. In other terms, when we speak in a juridical sense of the purpose or end of the State, we express a concept not substantially different from that which assigns a purpose to every human activity, to which purpose corresponds a will which of itself determines a scope for its own activity and in that sense directs its forces. It may also be that this will needs to be integrated

and protected; for physical persons, there is the case of the minor under a guardianship; for peoples, there are the cases of states under protectorates and mandates. But even in such cases, the end must always be in the interest of the person protected. The negation, instead, of every purpose directly concerning the individual or collective person — the making of it a simple means to serve exclusively the interests of other persons — signifies the annulment of a condition essential for the existence of any kind of juridical personality. For example, a man would become a slave—that is, juridically, a thing, an object, not a subject endowed with rights; and a collectivity would become an animal herd — certainly not a State. When, therefore, Jemolo affirms the absolute subordination of the Vatican City to an end that is external to it and that conditions even its existence, we do not contest the exactitude of his observation; we only say that it conduces to the annulment of every practical efficiency of what would be the State of the Vatican considered as territory and cohabitant people. From our point of view, this is what we wished to demonstrate.

The other Italian author we have chosen as reference is Donati, the celebrated professor of Public Law at the University of Padua, who has written a monograph on the subject which is considered of fundamental importance in this *materia*. He works from the thought expressed by Jemolo and seeks to give it an even wider and more general juridical systematization. For him, also, "the Vatican City is constituted in service of the Holy See precisely to guarantee with its own sovereign-

ty the absolute independence necessary for its mission." As can be seen, this is still the concept of the State — means or "state in service"; and here too, reproducing the same thought of Jemolo, it is precisely defined that the essential purpose of that service consists in ensuring the absolute independence of the Holy See.

Let me say at once that if someone, following this reasoning, affirmed that the regulation of 1929 differed substantially from that of 1871 because the Sovereign Pontiff was given a means of defending his independence and spiritual sovereignty, I should reply that such an objection displaces the question, but does not settle it. We are not considering here the question of whether the maximum independence must be attributed to the Holy See (the presupposition, not the theme, of this order of inquiries), but rather whether if to gain such an end, the attribution of statal sovereignty as formally declared by the laws of 1929 is the only method, necessary and at the same time sufficient. Considering the question under this aspect, no one could seriously deny that by the Law of Guarantees precisely the same purpose was declared of assuring full independence to the Holy See and that methods were coordinated to obtain such an end. Were these sufficient? Will the means given by the accords of 1929 be more efficient? Without difficulty, we may reply in the affirmative. We have already said that the law of 1871 continued a proposition that could have been improved, had it been accepted. But this improvement can take place only as regards quantity, not

as regards quality. Doing more does not signify doing something different.

Up to this point, we have found the thought of Jemolo and of Donati coinciding in attributing to the Vatican City the character of a State — as a means. Donati has attempted to give a theoretical systematization to the subject and to reenter this figure of a State into a genus or type that might be contained in the science of general public law. He has, especially, revived a historical figure — the so-called "Patrimonial State" — and has concluded that precisely this figure is suitable to the State of the Vatican City.

To determine with scientific precision what is intended by the "Patrimonial State" would involve a series of highly technical analyses which would not interest the general reader. The definition alone is difficult enough. Donati accepts, only with reservations, the concept generally admitted. For our immediate purpose, we may explain that while the dominating idea makes the State consist of three elements *fused into one* (Sovereign, population, territory), the doctrine of the partimonial State tends, on the contrary, to distinguish the Sovereign from the territory, in which is included the population just as trees and live stock are included in a country estate. The relation between the Sovereign and the State (territory) thus becomes not dissimilar to the relation between a person (proprietor) and his patrimony — hence the expression "Patrimonial State." The feudal State of the Middle Ages was of this kind; and according to Donati, the Vatican City is a

modern reproduction of that ancient form of State.

As I said before, we cannot in this book pause on questions of a purely juridical character. We can therefore say briefly that if, in order to explain the relation of means to an end existing between the Vatican City and the Sovereign who is the Holy See, we adopt the doctrine of the patrimonial State, it is evident that such an interpretation will raise all the objections which have been made in general public law to such an extent against this doctrine that it seems now abandoned by contemporary science. Considering, instead, the specific theme of this chapter—the study of the effective relation of the regulation of 1929 to the preceding one—we see what the effects of attributing the qualification of a patrimonial State to the Vatican City would be. We have seen that this doctrine tends to over-estimate the importance of the territory under the aspect of the Sovereign's right to enjoy the advantages it brings. And in that manner the territory (containing in itself, as we said, also the population) constitutes the source of all the means by which the Sovereign exercises his dominion and affirms his power in the interior as well as abroad. From our viewpoint instead, this efficiency of territory not only lacks everything but in a certain sense becomes reversed, so that the Sovereign of that territory (the Vatican City) not only does not take from it the right of material or economic power, but, on the contrary, the Sovereign provides with his own means what is necessary to maintain the territorial factor of his sovereignty (expenses for the organ-

ization of services, maintenance of buildings, and so forth). In other terms, from our viewpoint it is not the Territory (with its population) that maintains the Sovereign, but the Sovereign who maintains the Territory — which element, far from being predominant, becomes unimportant.

If, abandoning this side of the question as too materialistic, one wished to ascertain the value of the dignity because of which the possession of a given territory as a title to sovereignty attributes a superior rank of power, of honor or of other ideal advantages, it could not be admitted even under this aspect that that territory, though qualified in that manner, brings any greater dignity and honor; for everyone admits that the Holy See derives its authority and power exclusively from itself. If some one should repeat that the utility derived from the territory consists in the fact that in this way the only means—necessary and sufficient—is given to the Holy See for the assurance of the sovereign independence necessary for the accomplishment of its mission, we can refer to what we said above: the law of 1871 had also precisely this scope of assuring to the Holy See its sovereign independence. There may be a question of quantity, not of quality. Otherwise, it would be necessary to demonstrate that between the situation of the Holy See as it was before 1929 and as it was afterwards, such a radical transformation took place that it rendered the Holy See independent, which before it was not, and gave it prestige that formerly it lacked. No one would be able to affirm this without incurring ridicule.

At this point we are tempted to make a more

particular analysis of the prerogatives granted by the law of 1871, to demonstrate that it contained in itself the substance of the concessions by which in the Accords of 1929 the Vatican City was conceded the quality of a State. Making only a large synthesis, however, we may recall that article 1 of the law of 1871 attributed to the Sovereign Pontiff the same absolute inviolability typical of the Head of a Monarchy, with exactly the same formula that the Italian Constitution provides for the King. No one could ever really suppose that this attribution of sovereign prerogatives has only the value of such a simple honorary title as the appellation of "Majesty" or "Highness" which *L'Almanac Gotha* continues to attribute to Kings in exile or to Princes deprived of power. The truth is, by the law of 1871 those prerogatives were recognized in the Pope, and by a necessary consequence a figure of Sovereignty was admitted in Him, even though of a particular and exceptional character. Where, then, is there a difference (substantial, we mean) between that which was declared by the treaty of 1929?

Moreover, the law of 1871 did not give only a formal qualification; it attributed several powers of Sovereignty that are absolutely characteristic and typical: admission, from the point of view of internal public law, of the right to hold under exclusive authority an organized, armed force, a true army even though small; from the international point of view, the possibility of accrediting its own ambassadors and of receiving the diplomatic representatives of foreign governments with rights and guarantees in absolute parity with the

Italian legations or with the Italian Government. These are rights that can only be granted to a Sovereign, even though a Sovereign *sui generis*. If that was the situation of the Pope before 1929, is it not his situation at present?

Certainly the accord of 1929 clarified, amplified, and added other powers and faculties. But while the essential nucleus was contained in the concessions of 1871, account must also be taken of the modifications possible, in a sense of enlargement, through a broader interpretation that could have been given the law, especially in the event of a change in the historical-political situation of the times. No disrespect for the law is shown, but on the contrary its nobility and force is affirmed, when it is pointed out that the law has a power of unlimited transformation without need of any express legislative reforms but solely by successive interpretations. In fact, I do not hesitate to state that experience and the history of law demonstrate how preferable it is in the interests of peoples that the advancements of law come by slow evolution rather than by violent revolution. Of all systems of law, the Roman has undeniably been the most illustrious; and everyone knows that its greatest transformations were achieved less by virtue of legislative reforms than by slow but continually progressive interpretations in keeping with the slow but continual progress of juridical knowledge. And—to remain within the limits of our subject—even when guarantees recognized by the law of 1871 were tested by the World War, I never hesitated to adopt criteria of extensive interpretation, as I expressly declared in many

speeches both in Parliament and without; and in all doubtful cases or when the law of 1871 indicated that the situation had not been foreseen, I passed the broadest judgements and the ones most favorable to the sovereign independence of the Holy See. In fact, several of those cases presupposed statal quality in the Holy See, as, for example, in having granted to the functionaries of the Holy See the same freedom from military duty that the Government reserved for the maintenance of its services.

It perhaps will be said that the most important difference between the regulations of 1871 and 1929 is that the latter conferred an international character on the security and independence necessary to the Sovereign Pontiff for the exercise, without extraneous influence, of the supreme function of his spiritual order. But it does not seem that such an assumption can seriously be sustained. To me it seems impossible to admit that by the treaty of 1929 both Italy and the Holy See wished to anticipate and allow the possibility of intervention by foreign Powers almost to the extent of guarding by international law the independence of the Sovereign Pontiff. When such a supposition becomes unacceptable to the Italian Government, each side sees its own point of view. And no differently, we should consider the same supposition from the Holy See's point of view. I shall not quote the famous phrase of Prince Bismarck, the Iron Chancellor, who, when *Kulturkampf* was raging, deplored that the situation created immediately after 1870 prevented him from sending German battleships to make a naval

demonstration before the port of Civitavecchia. I prefer a personal recollection. In the worst moments of my conflict with Wilson, which because of the international situation was also a conflict with the whole world, forces at the Peace Conference of 1919 (especially on the part of the Catholics of Belgium, the United States and England) attempted to raise the "Roman Question" to the damage of Italy. One direction these forces took was toward having the Holy See admitted into the League of Nations, which, we may say in passing, implied an international recognition of the quality of a State in the Holy See—a new proof that this was not incompatible with the regulation of 1871.

I have stated frankly in another part of this book that the Holy See for its part did not encourage such attempts. I may observe here that to an institution of universal character it would be impossible, without doing a great wrong, to attribute such opposition to motives of patriotism, that is, to favor Italy. The predominating influence regarding that attitude may rather have been a correct intuition of the breach that would have occurred had any advantage of the Holy See been due to foreign pressure—which would have been an act of hostility toward Italy. For my part, while I formally declared I would consider such an event an offense and would resist it with all the means at my disposal, I also added that if it occurred outside my power, and hence against me, I would not oppose the proposal itself but would actually take the initiative. I advised, however, that I doubted very much such a proposal would

benefit the Holy See. No more was said; and I must believe this was due precisely to the natural repugnance felt toward a kind of international guardianship that would have followed—a feeling conformable to the attitude taken by Pope Benedict XV toward the possibility of an internationalization of the Law of Guarantees (see page 119).

Drawing to the conclusion, I believe I have given an adequate proof of my thesis that the political territorial regulation given to the Holy See by the Lateran Treaty does not conflict with the preceding regulation founded on the law of 1871 but rather that it is a continuation, if not also at the same time an integration and an improvement. I said above that this is not the dominating opinion; on the contrary, the majority of writers maintain exactly the opposite—that one regulation is the negation of the other and that they constitute a perfect antithesis. In general such opinion is implicit. But in other cases it is explicit and assumes this extreme and characteristic form: the statement that the regulation of 1929 represents a return to the regulation antecedent to 1870, before, that is, the taking of Rome by Italy.

In citing the difference between the various situations existing in the relations between the Holy See and the Government of Italy from 1860 (the constitution of the Kingdom) to 1870, from 1870 to 1929, and from 1929 to the present, several very authoritative writers have expressed their belief that the regulation of 1929 is connected with the one preceding September 20, 1870—that the Vatican City is the continuation of the

Papal States as they were from 1860 to 1870. A similar thought was expressed by Anzilotti (whom we have quoted elsewhere in this book) when he observed, "a situation was thus reconstituted substantially analogous to that which existed before the occupation by Italian troops." This concept was repeated with greater amplitude and made the central point in the demonstration of a thesis by Francesco Ruffini, a great professor at the University of Turin, a magnificent figure of jurisconsult and patriot. He was my dear friend and companion in the government during the war (he was minister in 1916-17). His recent death has been a sad loss for Italian juridical science.

In one of his last writings Professor Ruffini thus summarized his thought regarding the State of the Vatican City: "Hence, for practical purposes, the present Pontifical State cannot be compared except with its old predecessor; or, at most and only distantly, with some of the more archaic and exceptional figures of government that History records . . . In the comparison, therefore, of the new Pontifical State with the old, the fact that in the latter territory and population had a much greater significance cannot have decisive importance."

Reading these concepts in which, in complete contrast to our own thought, the juridical continuation of September 19, 1870 is February, 1929, we feel at once that this is a paradox, though an intellectual one. How can this be! Rome, the most illustrious city in the world, the only city that can claim a great, threefold history—ancient, medieval and modern—Rome, the per-

fect symbol of the imperial idea, an almost infeasible title of dominion over the world; Rome, the aspiration, passion, dream of millenniums, the radiant and sanguinary goal of peoples; Rome, become an entity territorially negligible, since by having or not having the possession of it by title of political sovereignty, it would thus be deprived of all efficiency, incapable of distinguishing one regulation from another, even if only under an aspect purely juridical and formal!

This is a paradox, I repeat. This expression, I hasten to add, is used with respect. I respect the paradox and recognise its serviceableness in many ways, such as acting as a weighty means of logical and rhetorical penetration, giving to a determined concept the maximum emphasis of which it is capable. And in fact in our own case we must admit that the unimportance demonstrated in that manner concerning the possession of Rome has more significance and more positive value than a volume of hundreds of pages we might have written to affirm this same concept; as regards the Holy See, its sovereignty is so inherent that the existence of this or that territorial counterpart becomes unimportant. To have or not to have Rome, does not matter. Ruffini says this with the limpidity and precision that are part of his most eminent qualities: "... territory and population are secondary factors, mutable from and interchangeable with the structure of the State. The primary factor, immutable and not interchangeable, is sovereignty. Hence in the comparison of the new Pontifical State with the old, the fact that in the latter territory and population had a much greater signi-

ficance cannot have decisive importance. *What is really important, we repeat, is its sovereignty, and this has been maintained identical through the centuries, conserving intact its incancelable and uninterchangeable characteristics."*

The first part of this proposition seems to have a general character about which we should have to maintain the same reservations made before regarding the theory of Donati; but eliminating it, we can well admit the second part which contains specific conclusions on the nature of the sovereignty that appertains to the Sovereign Pontiff, and agree to it. But as concerns our main thesis, it is just this consideration that makes our assumption correct. So, we can say sovereignty belongs to the Holy See by a virtue inherent in it, and this is so absolute and dominating, so characteristic and inclusive, that it is sufficient to itself and may be said to have remained unchanged through the centuries, independently of the extension and manner of being of the territory over which the Holy See exercises its authority. If this is true, is it not manifestly arbitrary to retain that there is little difference between the comparison of the present regulation of this sovereign power (the Pope in the Vatican City) with that which was before 1870 (the Pope possessing Rome with the Lazio), and the comparison of the present situation (the Pope in the Vatican City) with the one preceding (the Pope in a territory that about corresponded to that of the present Vatican City)? If the "man in the street" were questioned, he would surely be astonished at the audacity of such comparative criterions and refuse to admit them. We

believe the truth would be on his side and that this is a case in which good sense is worth more than scientific sense. It would also be paradoxical to make comparisons between the regulation after 1870 (continued by the present) and various periods of medieval history. I refer to those times when not only the Pontiff's authority over Rome was precarious, but also his personal security, even when Gregory VII was Pope; and nevertheless, in those very times, this condition did not prevent the authority of the Church and of its Head from reaching perhaps the highest state of power it had had in its hundreds of years of existence, when excommunication was enough to frighten the most secure sovereigns and when the right of dismissing emperors and kings from their thrones was affirmed (and, what is more, exercised).

But leaving paradoxes aside, the truth appears in quite simple terms. Although a universal and eternal institution, the Catholic Church has had, and will always have, to adapt the external conditions of its material life to the conditions of the world which is transforming slowly but incessantly by evolution and which is periodically agitated and convulsed by revolutions. That the Church without sacrifice of its own substance has miraculously adapted itself to the changes of humanity taking place in a period of 2,000 years, is a thing that transcends the power of our human comprehension and transports us into the realm of the supernatural; it has originated one of the arguments for reason in favor of the divine nature of the Institution itself. But though there has been such a miraculous virtue of adaptation, there

could not but come profound and even radical changes in the regulation of its external existence involving its temporal secular authority which, without doubt, is a condition for the exercise of its spiritual sovereignty and which is to it as the body to the soul. By this, while through the centuries many historical situations have arisen, each in sharp conflict with those of a previous age, the Church has succeeded in harmonizing the absolute rigidity of its mission with the radical variations of the time.

On one side, therefore, there has been a spiritual sovereignty dogmatic in its content, unchangeable and unchanged, appertaining to the Pontiff because he is Pontiff: *quia nominor leo*. But on the other side, to realize and actuate the ends of such sovereignty, there has been an indefinite capacity of transformation, a mystic flexibility of adaptation, by which it has been able to conform itself to the conditions of humanity in the times of S. Lino, of Leo the Great, of Gregory the Great, of Gregory VII, of Innocent III, and still later of Julius II and of Leo X. Arriving at our own times, and even limiting ourselves to a period less than a century long, from 1846 to the present, when we consider the conditions during the reigns of Pius IX, of Leo XIII, and Pius X, and of the present Pope, we speak not of periods but absolutely of ages, of eras, of different worlds. In that continual coordination of a form always contingent and changeable about an indefectible content, lies the profound connection of continuity whereby all the phases of that bewildering history are

bound together and unity is formed animated by one inward spirit.

To this last, contemporary period, extending from the second half of the nineteenth century to the first ten years of the twentieth, was reserved the task of adapting the universal necessities of the pontifical sovereignty to the national necessities of the new Italian Government. It was a formidable task; that it was completed with a minimum of effort in the face of great difficulty, that the inevitable bitter tension of conflict was tempered by a reciprocal endeavour toward wisdom and measure, that many times it lightly touched on the irreparable but always succeeded in evading it, constitutes a title of glory for Italy, composed as the parties were, on one side as well as on the other, of Italians. But since the task was mutual, and the work and the spirit, so all the phases that were traversed, and that necessarily had to be traversed, were harmoniously bound together. To break this unity would signify probably a juridical error, certainly a historical injustice.

APPENDIX

THE DIARY OF MONSIGNOR CERRETTI¹

(With a Note by V. E. Orlando)

June 1, 1919. — Having made previous arrangements with Signor Brambilla, at ten o'clock in the morning I went to the room occupied by Signor Brambilla and his wife in the Hotel Ritz, Place Vendôme. At 10:15, Hon. Orlando came in accompanied by his Secretary of the Cabinet, Prince di Scordia.

Signor Brambilla made the introductions, and after exchanging greetings, went into the adjoining room with his wife and the Prince di Scordia.

Hon. Orlando seemed very fatigued. The conversation began at once on the work of the Conference. After hinting at the breach of faith and the serious difficulties, Hon. Orlando observed that this Conference is not like the usual Congresses formerly held after wars, at which the plenipotentiaries assembled around a table with the famous green covering and played their good or bad cards to the best of their ability. In this Conference ability does not count, because there is one whom the circumstances have set up as an "arbi-

¹Published in the June-July 1929 issue of "*Vita e Pensiero*" (Milan), dedicated to the sacerdotal jubilee of His Holiness, Pius XI.

trator." Hence, it is necessary to take what the arbitrator gives. The arbitrator is Wilson. The circumstances have made him such. America was the last to enter the War, and her entry was the immediate cause of victory. He added that America is the only economically sound Power on whom all the others depend. One cannot dispute with Wilson. Here Hon. Orlando hinted at the inconsiderate act of the President of the United States against him, and continued:

"For three years I have been the leader of a Nation, in times such as it has never known before in history. I thought that after the Caporetto disaster and after the marvelous resistance I organized, the critical point was passed; instead, the Conference came, and I found myself faced by a situation I should never have imagined. Providence," he concluded with laughter, "could have spared me this cross!"

At this outburst, I answered with encouraging words, and expressed the hope that his difficult negotiations would meet with success. I changed the conversation by saying that Monsignor Kelly had related to me the talk he had had with him about the "Roman Question," and that His Excellency the Cardinal Secretary of State also knew of it. I added that by retaining it in all its particulars, I trusted that the good intentions he had shown in regard to it would produce a tangible result. I then went into the merits of the question, pointing out the great advantage the Church and Italy would gain if a satisfactory solution could be given them. I continued, saying that the occasion is perhaps more favorable than ever be-

fore, and that it must not be allowed to escape. The Holy See, moreover, is excellently disposed. One must have courage, I said, and work with sincerity. With good will, it is easy to reach an agreement.

Hon. Orlando listened to me with much attention. He then first of all confirmed the talk he had had with Monsignor Kelly, and at once granted that annoyances could arise from troublesome inhabitants who might use the part of the city bordering on the rest of Rome to make demonstrations, and so forth.

With regard to this, I observed that final negotiations could be made concerning the territory to be determined, and that a tentative boundary could be fixed equidistant from the Bridge of Sant' Angelo and the Piazza San Pietro. I thought, however, that the *Borghi* should be included in the territory as the river would also be a visible boundary for them. Moreover, I added, a more or less extensive territory is needed, not for material security, but for a place on which to establish the sovereignty, since it cannot be conceived without territory.

"I agree," Hon. Orlando answered. "Furthermore, we are not speaking here of strategic boundaries or of the desire for conquest. Even limited, it will always be a State — just as infusoria, as well as elephants, are both living beings."

This simile made us both laugh heartily.

"Regarding the other question that will arise from these new conditions," he continued, "they must be solved by mutual agreement and in a manner to eliminate annoyances to both sides. These

are difficult questions, but they can be settled. The Pope certainly will not have a complete, comprehensive organization for the administration of justice, a tribunal, Court of Appeals, Court of Cassation, etc. A large number of officials would be needed for all this and would be a great expense; then, too, there might be a homicide only once or twice every five years. The police, also, could be under control of the Italian Government. The mail and telegraph service should be directed by the Papal State, but with the same rates; otherwise, if you made the postal rate 10 centesimi a letter, everyone in Rome would go to the Vatican to mail his letters! More or less the same should apply to the customs duties. In short, corresponding agreement would have to be made in all these matters. In great part, the same legislation could be adopted that Italy has with the Republic of San Marino.

"It seems to me," he continued, "that it would be to the interest of the Holy See to exercise civil power as little as possible. Times are changed: Democracy rules, and modern developments cannot be applied to a civil government of the Pope. How, for example, could the Pope have a Parliament, or even a Municipal Council? Even his position as civil administrator would always be compromising. I say all this in the interests of the Holy See, and to guarantee it the prestige it should enjoy.

"I repeat," he concluded, "the questions that will arise from the new conditions will present difficulties, but it seems to me they can be overcome."

"As to the reception the country will give the

solution of the 'Roman Question', " I began, "I believe that in general it will be excellent. Right thinking people, who are in the majority, will be very pleased. There will be plenty of Freemasons to make an uproar; but they cannot prevail. Moreover, in Italy as well as abroad, everyone is waiting for something to be done in this Conference for the solution of the 'Question'. Abroad, especially in America, the press has already taken it up. In France, also, several newspapers brought up the question as soon as the Armistice was signed.

"In Italy, newspapers of every tendency, even the *Messaggero* and the *Giornale d'Italia*, have shown themselves in favor of the question's discussion. Your Excellency must know of the article published in the *Messaggero* by Signor Cirallo, a mason and a radical.

"Therefore, you see, Excellency," I concluded, "that public opinion in Italy is, I should say, already prepared; and this should be an additional reason for facing the question with resolution."

"On this point," answered Hon. Orlando, "I can tell you frankly what I feel. Above all, you must know that a few months ago — I do not at the moment recall the precise date — a very estimable person spoke to me about this question. And although I did not absolutely set it aside, I mentioned the serious difficulties it presented. Now as to the impression it would make in the country, that depends on the country's *psychological* state. At present, the Italian people, as almost all the people of the other victorious nations, are permeated by what might be called an exaggerated

nationalistic spirit. After five years of severe tension, after so many profound emotions, the social order feels itself almost exhausted. Only one force holds it together — nationalism — that is, as I say, excessive. If nationalism were now to fail completely to realize its aspirations, it might be feared that the social order could not resist the blow, and disaster would result. It is not that I am apprehensive of a revolution; for even if one did break out through the work of extreme parties, it would soon be dominated by the nationalists themselves. As Mussolini aptly said to Serati, 'If you make a revolution, after fifteen days we shall be the revolutionists.' Granting this, if we add another fact of transcendent importance — the solution of the 'Roman Question' — the risk is being taken, perhaps, of stirring the social order so profoundly that we might almost fear oppression. As you know, even one gratification given to a weakened order may prove fatal. I do not say this to exclude the possibility of making some move, but only to show that caution must be used and that the ground must be well prepared. I certainly believe that by far the larger part of the nation would receive the news of this solution with great joy, and that the effect abroad would be enormous.

"Hence, everything considered, I have no hesitation in taking the initiative. I must first of all consult the King. I am sure he will be in favor of it. Furthermore, as you know, he is a thoroughly constitutional Sovereign. So on his account, I believe we shall have no trouble. I must then submit the question to the Council of Ministers. I

think they also will be favorable, on general principle."

"Even Hon. Sonnino —," I interrupted.

"Sonnino," replied Hon. Orlando, "is very difficult. I do not know how he will take the matter. Probably, after having examined the question from every side, even he will not oppose it. But certainly he will have to be convinced. Another who, perhaps, will be contrary is Hon. Berenini. If, however, their opposition has to be overcome, I shall not hesitate even to relieve myself of them. The affair is too important. Paris is well worth a Mass: here one would have to say just the opposite! As to the moment for action, it seems to me there are strong reasons for doing it at once — that is, before the signing of peace. And there are also good reasons for waiting until it is signed. If, while the Conference is still in session, this exceedingly important news came out, who knows how it would be taken by the Delegates, and what significance they would give it. Moreover, for the moment I cannot leave Paris, and from a distance the matter would be badly handled. It would be necessary to make preparations, sound out somewhat the ideas of the principal politicians, and prepare all the details, or at least the most important ones.

"So, everything considered, it would be best perhaps to await the signing of peace. In the meanwhile, however, I shall start to prepare the ground. Within ten days, I shall summon the Council at the frontier or at Rome, and present the question. I shall also see the King, and if by chance the Coun-

cil is assembled at the frontier, I shall find a way to have him informed of the question."

"A way must also be found," I said, "to have recognition of this fact and an international guarantee as written in the note that you read. It is absolutely necessary that the pontifical territory be guaranteed also by the other nations. Otherwise, we shall be as before, and the Pope will remain under the authority of the Italian Government. To obtain this, we now have a simple and effective method — that is, to have the Pope take part in the League of Nations. As is known, an article of the League of Nations mutually guarantees the territory of every nation active in the League. Furthermore, I am quite sure that the President of Brazil, in the audience he had with the Holy Father, said of his own accord that he would work to have the Holy See enter the League. We may be sure that also Belgium, Spain and other powers would favor such a proposal."

"Surely this would be an excellent method," replied Hon. Orlando. "The Italian Government, agreeing with the solution of the question, would demand an excellent method. The Italian Government would present it to the League, and I am certain it would be accepted. There is, however, a difficulty that does not concern us, but the Holy See. It is this: The Holy See, becoming a part of the League, would participate in the Council of Great Nations on which devolve the most important functions. Now, would its dignity be maintained? Would it not lose somewhat of its prestige?"

"It does not seem so to me," I answered, "be-

cause the Pope in the meanwhile would take part in the League as Head of a State. Hence, if the State is small, his dignity is not compromised."

"Precisely," said Hon. Orlando. "The Pope must participate in the League as Head of a State, not as Head of a Religion. Otherwise, even the Caliph, the Chief Rabbi, and so forth, would ask to take part in the League, which is absurd. And taking part as Head of a State that is very limited in size, it seems to me, also, that the dignity of the Pontiff would not be compromised."

The conversation was continued for some time, returning to the points already mentioned, confirming and enlarging on them. We each promised several times to observe the utmost secrecy about the visit and about what had been said.

"Mind you," said Hon. Orlando at a point in the conversation, "even at the least indiscretion I shall disclaim everything and completely deny having seen you."

"I shall do the same," I answered.

At length I asked his consideration on the question of the Missions, of Palestine and of Santa Sofia, which subjects we discussed for awhile. Hon. Orlando promised to support the wishes of the Holy See, especially regarding the missions. "As to Santa Sofia," he said, "The matter would be easy if Italy could have the cumulative mandate with America on Constantinople. This would be an excellent solution, because, as America lacks men and workers, and the mandate is therefore very unpopular with the American people, Italy could furnish these."

It was 11:15 when Hon. Orlando went away, evidently satisfied with our talk.

On leaving, he said, "I trust that our conversation will gain the desired result."

June 9. — At 6:30 P. M., Signor Brambilla came to tell me that Hon. Orlando in conversation yesterday at Oulx with Colosimo, Vice President of the Council, discussed at length the solution of the "Roman Question." After having related the talk he had with me on June 1st, he instructed him to inform the King of everything, as well as each of the Ministers separately. Hon. Colosimo expressed himself as in favor of the matter.

Hon. Orlando said all this to Signor Brambilla in the presence of Aldovrandi, head of Hon. Sonnino's Cabinet. This would lead me to believe that Sonnino also is acquainted with the matter. Signor Brambilla assured me that he as well as Marchese Della Torretta are working as hard as they can to induce Hon. Orlando to act quickly, in view of the political situation in Italy. It seems, in fact, that Hon. Orlando's position is somewhat shaken, and that the strikes and the economic crisis may produce a crisis in the Ministry. If Hon. Orlando goes out at this moment, it will really be a disaster.

June 10. — The newspapers report that Hon. Orlando has been received by the King. Certainly he must already have informed the Sovereign of the question.

June 15. — Hon. Orlando's Ministry resigns.

Note By V. E. Orlando

When I first learned of the existence of this document and its text was read to me, I made no objection. I was not informed specifically of its publication, although the possibility of publication was mentioned in a general way. I made no objection about this either.

The editing and publication of this document which so directly concerns me has, therefore, been made after first advising me. As previously I had no corrections to make either as to its substance or to its form, I have none now. I must warn the reader, however, to bear constantly in mind the special nature of the document. It reproduces a conversation — a manner of speaking in which color, vivacity, and pointed phrases are more sought after than the care and selection exercised in writing. It is only natural that this accurate transcript of our conversation contains expressions made on the spur of the moment. I should like to draw attention to several of these phrases that should have been smoother; but in doing so, I do not wish to have it thought that I am attributing their quality to any fault of Monsignor Cerretti. On the contrary, I consider the energetic form in which the conversation is recorded as a recommendation of the document from the point of view of fidelity. It is only necessary, as I say, that allowance be made for the manner in which thoughts on these subjects was expressed.

When, for instance, the conversation turned on the organization of the public services of the Holy See and referred to the need of maintaining the

rates of the services equal to the corresponding rates of the Italian Government, I said that otherwise a great many people would hurry to Saint Peter's to mail their letters and save a few centesimi. This is a typical case of imaginative expression that in conversation is effective, but that in writing may not seem entirely in keeping with the seriousness of the subject.

Another example. When we spoke on the probable reception some of my colleagues in the Cabinet would give to the news of the accord, I declared that there would be no insurmountable obstacles, but that as a last resort I would not hesitate to "relieve myself" of my dissentient colleagues. The expression sounds harsh, and as such would be unjust. The substance of all I said, as reported in the Diary, demonstrates that, far from considering the separation of my colleagues with indifference, I vigorously indicated the gravity of such an occurrence, insisting that it was only exceeded by the gravity of the eventual obstacle. And this was saying not a little. In fact, it was saying so much that in repeating it, I am inverting the famous phrase of Henry IV — "Paris is worth a mass." The text itself shows immediately that the phrase did not express my thought exactly.

My remarks, however, have to do only with more careful expression, and do not detract from the value of the document. I rather fear, moreover, that this note may appear to have been prompted by pedantry. In that event, account must be made of the special character the document assumes with regard to my personal recollections, inasmuch as it is included in the present volume.

BIBLIOGRAPHIE

BASTGEN, *Die Römische Frage. Dokumente und Stimen. Freiburg in B.* 1917-1919. (an ample and very accurate bibliography of the Roman question).

WYNEN, *Die Rechts-und insbesondere die Vermögensfaehigkeit des Apostolischen Stuhles nach internationalen Recht, Freiburg i.B.* 1920.

ARANGIO RUIZ, *Sulla personalità internazionale della Santa Sede*, in: *Rivista di diritto pubblico*, 1925, parte I.

CURATOLO, *La Questione Romana da Cavour a Mussolini*. Roma 1928.

DIENA, *La Santa Sede e il diritto internazionale dopo gli Accordi Lateranensi dell'11 febbraio 1929*; in: *Rivista di diritto internazionale*, vol. 21, fasc. 2, 1929.

D'AVAK, *Sul riconoscimento dello Stato Vaticano da parte dell'Italia e degli altri Stati esteri*, in: *Il diritto ecclesiastico*, luglio-settembre 1929.

MORELLI, *Il Trattato fra l'Italia e la Santa Sede*, in: *Rivista di diritto internazionale*, vol. 21 fasc. 2, 1929.

SCADUTO, *La conciliazione dello Stato italiano con la Santa Sede*, in: *Rivista di diritto pubblico*, 1929.

ARANGIO RUIZ, *La Città del Vaticano*, in: *Rivista di diritto pubblico*, 1929, fasc. 11.

WEELER BENNET, *Documents of international affairs*, 1929. Oxford 1930. (Text of the Lateran Accords).

WILLIAMSON, *The Treaty of the Lateran*. London, 1929 (Text of the Law of Guarantees).

MONTI, 1870-1929. *Dalla presa di Roma alla Conciliazione*. Milano 1929.

SALATA, *Per la storia diplomatica della Questione Romana. Da Cavour alla Triplice alleanza*. Milano 1929.

ANZILOTTI, *La condizione giuridica internazionale della Santa Sede in seguito agli Accordi del Laterano*, in: *Rivista di diritto internazionale*, 1929.

SIOTTO PINTOR, *Die Erledigung der Römischen Frage durch die Lateranverträge und das neue Kirchenrecht in Italien*, in *Jahrbuch des öffentlichen Rechts*, vol. 18, 1930.

LIERMANN, *Staat und Kirche in den Lateranverträgen zwischen den Heiligen Stuhl und Italien vom 11 Februar 1929*, in *Archiv des öffentlichen Rechts*, 1930.

TOYNBEE and BOULTER, *The settlement of the conflict between the Papacy and the Kingdom of Italy*, in the *Survey of international Affairs*, 1929, Oxford 1930.

JARRIGE, *La condition internationale du Saint-Siège avant et après les Accords du Latran*. Paris 1930.

BALLADORE PALLIERI, *Il rapporto fra Chiesa cattolica e Stato vaticano secondo il diritto ecclesiastico ed il diritto internazionale*, in: *Rivista internazionale di scienze sociali*, vol. 33, fasc. 2, 1930.

JEMOLO, *Carattere dello Stato della Città del Vaticano*, in: *Rivista del diritto internazionale*, 1930.

GIANNINI, *Saggio di una bibliografia sugli Accordi del Laterano*, in: *Rivista internazionale di scienze sociali*, vol. 33, fasc. 5-6, 1930.

LE FUR, *Le Saint-Siège et le droit des Gens*, Paris 1930.

RAEBER, *Der neue Kirchenstaat; Eine Studie über die Entstehung und Natur der Vatikanstadt. Einsiedeln* (1930).

FRAGONNARD, *La condition des personnes dans la Cité du Vatican*. Paris 1930.

Les Accords du Latran (Contributions by LA BRIERE, BUCAILLE, LE FUR, MISSEY, TROGAN, VANNEUFVILLE) Paris, s.a. (1930).

OTTOLENGHI, *Sulla condizione giuridica della Città del Vaticano*, in: *Rivista del diritto internazionale*, vol. 22, fasc. 2, 1930.

CORNAGGIA MEDICI, *Il passato e il presente della Questione Romana*. Firenze 1930.

CHECCHINI, *La natura giuridica della Città del Vaticano e del "Trattato" Lateranense*, in: *Rivista di diritto internazionale*, vol. 22, fasc. 3, 1930.

DONATI, *La Città del Vaticano nell'ordinamento generale dello Stato*. in: *Studi in onore di O. Ranelletti*. Padova 1931.

PIOLA, *La Questione Romana nella storia e nel diritto da Cavour al Trattato del Laterano*. Padova 1931.

MUSSOLINI, *Gli Accordi del Laterano, Discorsi al Parlamento*. Roma 1929.

RUFFINI, *Lo Stato della Città del Vaticano*, in: Atti della R. Accademia della Scienze di Torino, vol. 66, 1931.

RIVET, *La Question Romaine et le Traité du Latran*. Paris 1931.

BRIERE, *La Communauté des Puissances*. Paris 1932.

CAMMEO, *Ordinamento giuridico dello Stato della Città del Vaticano*. Firenze 1932.

PETRONCELLI, *La Santa Sede e lo Stato della Città del Vaticano*, in: Rivista internazionale di scienze sociali, vol. 35, 1932.

GORDON IRELAND, *The State of the City of the Vatican*, in American Journal of International Law, vol. 27, 1933.

GIUSTINIANI, *Bibliografia degli Accordi Lateranensi*, in Il diritto ecclesiastico, 1934.

SCHOEN, *Die rechtliche Natur der Vatikanstadt und des politischen Lateranvertrages* in: Zeitschrift für öffentliches Recht, 1934.

SAVIANO, *Sovranità della Chiesa e Sovranità dello Stato. Come e perchè fu fatta la conciliazione*. Milano, 1934.

FALCO, *The legal position of the Holy See before and after the Lateran Agreements*. Two lectures, Oxford, 1935.

RUFFINI, *Imperi Centrali e Vaticano durante la guerra*, in: Scritti storici e giuridici, Milano, 1936.

